CLERK'S COPY.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1907.

No. 466.

CAROLINE W. DOBBINS, PLAINTIFF IN ERROR,

vs.

THE CITY OF LOS ANGELES.

IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

(19,051.)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1903.

No. 400.

CAROLINE W. DOBBINS, PLAINTIFF IN ERROR,

vs.

THE CITY OF LOS ANGELES.

IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

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1–4 *Transcript on Appeal.*

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Appellant,
vs.
THE CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Respondent. } L. A., No. 1330.

Appeal from the superior court of Los Angeles county. Lucien Shaw, judge.

Lynn Helm, Lee, Scott, Bailey & Chase, attorneys for plaintiff and appellant.

W. B. Mathews, attorney for defendant and respondent.

Endorsed: Filed this 20 day of October, 1902. Geo. W. Root, clerk, by H. S. Simpson, deputy clerk.

5 In the Superior Court of the State of California in and for the County of Los Angeles.

CAROLINE W. DOBBINS, Plaintiff,
vs.
THE CITY OF LOS ANGELES, a Municipal Corporation, Defendant.

Complaint.

The plaintiff complains and alleges:

That at all times mentioned in this complaint the said defendant The City of Los Angeles is and was a municipal corporation duly organized under the laws of the State of California, and situate in the county of Los Angeles aforesaid.

That on or about the 1st day of August, A. D. 1901, the said plaintiff, contemplating the erection of gas works for the purpose of the manufacture, recovery, storage and distribution of gas for the purpose of supplying the inhabitants of the city of Los Angeles and inhabitants of cities neighboring and adjacent thereto, caused
6 to be organized a corporation known as the Valley Gas and Fuel Company and the said Valley Gas and Fuel Company, was, at the instance of the said plaintiff, on or about the 8th day of August, 1901, duly organized under and by virtue of the laws of the State of California.

That after the organization of the said Valley Gas and Fuel Company, and on or about the 1st day of September, 1901, the said plaintiff made and entered into a certain contract with the said Valley Gas and Fuel Company to build, construct and erect for her

on certain premises to be designated by her and as hereinafter described, certain gas works, including coke ovens and all things necessary for the manufacture, recovery, storage and distribution of gas, said gas works in themselves consisting of gas generators, gas washers, and scrubbers, purifier and gas holder and tank, the same to be all complete and to be delivered to the said plaintiff on or before the 1st day of January, 1902.

That after the making of the said contract between the said plaintiff and the said Valley Gas and Fuel Company to erect and construct said works, the said plaintiff took such steps as were necessary to carry out her intentions as hereinbefore set forth, and the said Valley Gas and Fuel Company entered into divers and sundry contracts with divers and sundry persons to do the work necessary in the erection of said coke ovens and gas works.

That on or about the 26th day of August, 1901, the common council of the city of Los Angeles attempted to pass a purported ordinance known as ordinance No. 6663, (new series), entitled
7 "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," which said ordinance was on the 26th day of August, 1901, attempted to be approved by the mayor of the city of Los Angeles, and duly published in the official paper of the city of Los Angeles in accordance with the provisions of the charter of the said city of Los Angeles, which said purported ordinance is in words and figures as follows, to wit:

Ordinance No. 6663 (new series).

An ordinance prohibiting the erection or maintenance of gas-works, gas tanks or reservoirs within certain portions of the city of Los Angeles.

The mayor and council of the city of Los Angeles do ordain as follows:

SECTION 1. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment or manufactory for the manufacture of gas; or any tank, reservoir or other receptacle for the storage of gas within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to wit:

Beginning at the intersection of the center line of the official bed of the Los Angeles river with the south charter boundary line of the city of Los Angeles; thence westerly along said south charter boundary line to the center line of Santa Fe avenue; thence northerly along the center line of Santa Fe avenue to the center line of Violet street; thence westerly along the center line of Violet street to the center line of Wilson street; thence northerly
8 along the center line of Wilson street to the center line of Atlantic street; thence westerly along the center line of Atlantic street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of Palmetto

street; thence easterly along the center line of Palmetto street to the center line of Molino street; thence northerly along the center line of Molino street to the center line of Fourth street; thence easterly along the center line of Fourth street to the prolonged center line of Santa Fe avenue; thence northerly along said prolonged center line of Santa Fe avenue to the center line of First street; thence easterly along the center line of First street to the center line of Center street; thence northerly along the center line of Center street to the center line of Aliso street; thence westerly along the center line of Aliso street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of San Fernando street; thence easterly along the center line of San Fernando street to the center line of the official bed of the Los Angeles river; thence southerly along the official bed of the Los Angeles river to the point of beginning.

SECTION 2. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment in the city jail for not less than thirty (30) days nor more than one hundred (100) days, or by both such fine and imprisonment. Every day that such gas works, tank or reservoir is maintained in violation of the provisions of this ordinance, shall be deemed a separate offense within the meaning of this ordinance.

SECTION 3. Ordinance No. 174 approved July 2nd, 1885,
9 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. The city clerk shall certify to the passage of this ordinance and cause the same to be published once in the Los Angeles Daily Journal and thereupon and thereafter it shall take effect and be in force.

I hereby certify that the foregoing ordinance was adopted by the council of the city of Los Angeles at its meeting of August 26th, 1901.

C. H. HANCE, *City Clerk.*

Approved this 26th day of August, 1901.

M. P. SNYDER, *Mayor.*

That thereafter, within the territory of the city of Los Angeles within which by said purported ordinance last hereinbefore set forth it was lawful to erect or maintain gas-works, gas tanks or reservoirs for the manufacture of gas, and on or about the 28th day of September, A. D. 1901, the said Caroline W. Dobbins, for the purpose of erecting the gas-works contemplated by her as aforesaid, purchased the following described premises situate in the city of Los Angeles and State of California, to wit: all of lots 16, 17 and 18, of block 2, Pomeroy & Mills' subdivision of the Hollenbeck tract, as per map recorded in Book 5, page 199, miscellaneous records of said Los Angeles county; also that part of lot 15 in said block 2 described

as follows, to wit: Commencing at a point in the northerly line of St. John street at the most southerly corner of said lot 15, thence along the dividing line between lots 15 and 16 of said block 2, north 45° west 38.50 feet to a point; thence north 34° 2′ east 9.64 feet to a point; thence north 29° 42′ east 50 feet to a point; thence north 22° 18′ east 44.28 feet to a point in the westerly line of the tract conveyed to D. McCool, trustee, by deed recorded in Book 461, page 7, of deeds, records of said Los Angeles county; thence along the westerly line of said tract conveyed to D. McCool, trustee, south 3° 37′ west 106.37 feet to a point in the northerly line of St. John street; thence along the northerly line of St. John street 44° west 18.3 feet to the place of commencement.

And the said plaintiff further alleges that on or about the 28th day of December, A. D. 1899, the city council of the city of Los Angeles passed a certain ordinance known as ordinance No. 6108, new series, of the city of Los Angeles, entitled "An ordinance regulating the manner of constructing, altering, repairing, moving (when moved without entering upon a public street or alley), of buildings in the city of Los Angeles; providing for the issuing of permits for the same, and for the condemnation of buildings and other structures when dangerous to property, life or limb." That section 101 of said ordinance, which was in force on the 1st day of November, 1902, was in words and figures as follows: "It shall be unlawful for any person, firm, or corporation, to erect or cause to be erected, maintain or cause to be maintained, occupy or cause to be occupied, any livery stable, blacksmith shop, stone crusher, rolling mill, planing mill, carpet beating establishment, fireworks factory, soap factory, gas-works, or other factory where power other than animal power or water power is used, within the corporate limits of said city without a permit from the fire commissioners so to do. Before any such permit shall be granted, the clerk of the board of fire commissioners shall mail a notice to each record owner of real property in the block in which it is intended to erect the building or structure for which the permit is sought, by depositing in the United States post office, a postal card directed to each such record owner of property at his last known address, notifying said record owner of the fact that such permit is applied for, the nature of the same, and the time and place when and where the application for the granting of the same will be heard. Said board shall at such hearing give an opportunity to all parties interested to be heard, and shall have power to grant or refuse such permit. The costs of mailing said notice to be first deposited, by said applicant, with the clerk of said board."

And the said plaintiff further alleges that by the charter of the city of Los Angeles it is provided that there shall be four fire commissioners appointed by the council of the city of Los Angeles, and that they should have such powers and perform such duties as should be granted or imposed by ordinance; that pursuant to said charter fire commissioners were appointed by the said common coun-

cil of the city of Los Angeles as follows: J. Frankenfield, O. A. Vickery, J. Kuhrts, and B. O. Webb.

The plaintiff further shows and alleges that pursuant to the regulations in said ordinance last hereinbefore set forth prescribed, and said ordinance as hereinbefore set forth being in full force and effect, on or about the first day of November, A. D. 1901, the said
12 Caroline W. Dobbins, for the purpose of manufacturing, recovering, and distributing gas, made application to the board of fire commissioners of the city of Los Angeles, for a permit to erect gas works, which application of the said Caroline W. Dobbins to the said board of fire commissioners was in words and figures as follows:

To the Hon. M. P. Snyder, mayor of the city of Los Angeles, and the board of fire commissioners.

GENTLEMEN: The undersigned, Caroline W. Dobbins, a resident of the county of Los Angeles and State of California, for the purpose of manufacturing, recovering and distributing gas, respectfully asks for a permit from the fire commissioners to erect works for the manufacture, recovery and storage of gas upon the following described premises, situate in the city of Los Angeles, State of California, to-wit:

All of lots sixteen (16), seventeen (17) and eighteen (18) in block two (2), Pomeroy and Mills' subdivision of the Hollenbeck tract, as per map recorded in Book 5, page 199, miscellaneous records of said Los Angeles county. Also that part of lot fifteen (15) in said block two (2) described as follows, to-wit:

Commencing at a point in the northerly line of St. John street at the most southerly corner of said lot fifteen (15); thence along the dividing line between lots fifteen (15) and sixteen (16) of said block two (2), north forty-six degrees (46°) west thirty-eight and fifty one hundredths (38.50) feet to a point; thence north thirty-four
13 degrees and two minutes (34° 2′) east, nine and sixty-four one hundredths (9.64) feet to a point; thence north twenty-nine degrees and eighteen minutes (22° 18′) east forty-four and twenty-eight hundredths (44.28) feet to a point in the westerly line of the tract conveyed to D. McCool trustee, by deed recorded in Book 461, page 7 of deeds, records of said Los Angeles county; thence along the westerly line of said tract conveyed to D. McCool trustee, south three degrees and thirty-seven minutes (3° 37′) west, one hundred and six and thirty seven hundredths (106.37) feet to a point in the northerly line of St. John street; thence along the northerly line of St. John street south forty-four degrees (44°) west, eighteen and three-tenths (18.3) feet to the place of commencement.

Said premises are within the limits prescribed by an ordinance passed by the city council of the city of Los Angeles on the 29th day of August, 1901, in which it shall be lawful to erect and maintain works for the manufacture of gas. Said gas works are to consist of fire proof buildings and tanks to be constructed of iron, brick,

stone and concrete, and no buildings, tanks or other works are to be constructed thereon of any combustible material.

That the gas so manufactured or so to be manufactured is to be supplied to the inhabitants of the city of Los Angeles for illuminating purposes only.

(Signed) CAROLINE W. DOBBINS.

That said application of the said plaintiff was on the said day of November, 1901, duly presented to the board of fire commissioners of the city of Los Angeles, and was by them referred to the
14 chief of the fire department for investigation and report, and thereafter, on the 8th day of November, 1901, the application of the said plaintiff, Caroline W. Dobbins for permission to establish gas works was taken up by the said board of fire commissioners; the clerk of the board of fire commissioners reported that the petitioner had advanced the costs of sending required notification to property owners as prescribed in the building ordinance as aforesaid, and that notices had been sent, notifying the record owners of the property in the block in which it was intended to erect said building or structure for which permit was sought or the fact that such permit was applied for, the nature of the same and the time and place when and where the application for the granting of the same would be heard.

That at said meeting of the board said board gave an opportunity to all persons interested to be heard, and on motion duly made then and there took the said application and the matters therein referred to under advisement; that afterwards, and on about the 22nd day of November, 1901, such further proceedings were had before the board of fire commissioners aforesaid, upon said application, that on motion the application of said plaintiff, the said Caroline W. Dobbins, for permission to erect and maintain a gas works was taken from the table, and it was duly moved and seconded that the application be granted; that upon the hearing of said motion three of said commissioners, to-wit, Commissioners Webb, Vickery and Frankenfield voted aye, and Commissioner Kuhrts, no; and there-
15 upon, after said vote was announced, the said commissioner Kuhrts directed the clerk of the board to change his vote on said motion from no to aye, and gave notice that on the next meeting he would move to reconsider the question.

That afterwards, and on the 29th day of November, 1901, at the next meeting of the board of fire commissioners, in accordance with the notice given at the last meeting, Commissioner Kuhrts moved to reconsider the motion made at the last meeting to grant to Caroline W. Dobbins a permit to erect gas works, which motion was lost by the following vote: No, Commissioners Webb, Vickery and Frankenfield; aye, Commissioner Kuhrts and Mayor Snyder; all of which will, by the records of said fire commissioners now in the hands of the clerk of said fire commissioners or by a copy thereof ready to be produced upon the trial hereof, more fully and at large appear. And the said plaintiff further shows and alleges that im-

mediately upon the granting of the said permit, and on the same day, to-wit, the said 22nd day of November, 1901, the said plaintiff gave directions to the said Valley Gas & Fuel Company to proceed to carry out its contract with her, and directed the said Valley Gas & Fuel Company to erect the said gas works and coke ovens, upon the premises of the said plaintiff hereinbefore described, and to commence work thereon at once; that immediately, and on the said 22nd day of November, 1901, pursuant to the direction of the said plaintiff, the said Valley Gas & Fuel Company entered into divers and sundry contracts with divers and sundry persons for the erection of certain portions of said gas works and coke ovens, and
16 more particularly with one C. J. Kubach, a builder and contractor in the city of Los Angeles, who then and there on said date last aforesaid commenced the laying of the cement foundation for the water tank, gas holder, scrubbers and generators, which were to be erected thereon pursuant to the contract entered into between the Valley Gas & Fuel Company and the plaintiff, for the benefit of the plaintiff.

That pursuant to said contract the said C. J. Kubach laid the foundations last hereinbefore specified, at a cost of upwards of the sum of $2500.00; that said foundations are of great strength, and are of very costly material, and that if the same should have to be destroyed or removed it would cause irreparable damage and injury both to the plaintiff and the said Valley Gas & Fuel Company, as the same are the foundations of all the work constructed by the Valley Gas & Fuel Company for the said plaintiff as hereinafter specifically described.

And the plaintiff further shows and alleges that on or about the 25th day of November, 1901, after granting of the said permit to the said plaintiff by the said board of fire commissioners, to erect the said gas works upon the premises hereinbefore described, within the district within which it was lawful to erect gas works as aforesaid in the city of Los Angeles, and after the material had all been placed upon the ground by the said C. J. Kubach for the erection of the said foundations and said foundations had been nearly laid and completed, the city council of the city of Los Angeles attempted to pass a purported ordinance purporting to be an ordinance
17 entitled "An ordinance amending ordinance 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," which said purported ordinance is in words and figures as follows:

Ordinance No. 6779 (new series).

An ordinance amending ordinance No. 6663, new series, entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles," approved August 26, 1901, by amending section 1 of said ordinance.

The mayor and council of the city of Los Angeles do ordain as follows:

SECTION 1. That section 1 of ordinance No. 6663, new series, entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles," approved August 26th, 1901, be and the same is hereby amended to read as follows:

SECTION 1. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment or manufactory for the manufacture of gas, or any tank, reservoir or other receptacle for the storage of gas within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to wit:

Beginning at the intersection of the center line of the official bed of the Los Angeles river with the south charter boundary line
18 of the city of Los Angeles; thence westerly along said south charter boundary line to the center line of Santa Fe avenue; thence northerly along the center line of Santa Fe avenue to the center line of Violet street; thence westerly along the center line of Violet street to the center line of Wilson street; thence northerly along the center line of Wilson street to the center line of Atlantic street; thence westerly along the center line of Atlantic street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of Palmetto street; thence easterly along the center line of Palmetto street to the center line of Molino street; thence northerly along the center line of Molino street to the center line of Fourth street; thence easterly along the center line of Fourth street to the prolonged center line of Santa Fe avenue; thence northerly along said prolonged center line of Santa Fe avenue to the center line of First street; thence easterly along the center line of First street to the center line of Center street; thence northerly along the center line of Center street to the center line of Aliso street; thence westerly along the center line of Aliso street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of San Fernando street; thence southeasterly following the line of the Southern Pacific railway on Redondo street and Alhambra avenue to the official bed of the Los Angeles river; thence southerly along the official bed of the Los Angeles river to the point of beginning.

SECTION 2. The city clerk shall certify to the passage of this ordinance and shall cause the same to be published once in the Los Angeles Daily Journal, and thereupon and thereafter it shall take effect and be in force.

19 I hereby certify that the foregoing ordinance was adopted by the council of the city of Los Angeles at its meeting of November 25th, 1901.

C. H. HANCE, *City Clerk.*

Approved this 26th day of November, 1901.

M. P. SNYDER, *Mayor.*

And the plaintiff further alleges that she is advised and therefore avers that said purported ordinance last hereinbefore set forth attempted to be passed by the city council of the city of Los Angeles, on the 25th day of November, 1901, is void and invalid, in that it is uncertain, unreasonable, and is an attempt to regulate in an unlawful manner and without authority of law the business of erecting gas works within the city of Los Angeles, and is in violation of the rights of said plaintiff, secured to her by virtue of the contract entered into between her and the Valley Gas & Fuel Company, and in violation of the rights granted to the said plaintiff by the city of Los Angeles on the 22nd day of November, 1901, as aforesaid, and is in violation of the provisions of the constitution of this State, and of the Constitution of the United States prohibiting the passing of any law impairing the obligations of contracts.

And the plaintiff further shows and alleges that since the granting of the said permit to the said plaintiff by the said board of fire commissioners of the city of Los Angeles on the 22nd day of November, 1901, as aforesaid, the said plaintiff, through the said Valley Gas & Fuel Company, by reason of the contract aforesaid for the erection of said gas works and on her behalf, and until the commission or the acts of the said defendant hereinafter set forth,
20 has been peaceably and lawfully engaged in the erection of the gas works upon the premises of the said plaintiff hereinbefore specifically described and the said Valley Gas & Fuel Company and its employees and subcontractors under the contract with the said plaintiff, have been engaged upon said premises in carrying out said contract, and until the commission of the acts of the said defendant hereinafter set forth, have been peaceably and lawfully engaged in the erection of the gas works hereinbefore specifically described; that during said time the said Valley Gas & Fuel Company, for the said plaintiff, has erected upon said premises, complete, the said gas generator, and also the scrubbers and washers used in the manufacture of gas; that said generators and scrubbers are all complete except a connection therewith by a pipe necessary therefor of about six feet in length and twelve inches in diameter; that the water tank and gas holder has been commenced upon the same foundation prepared therefor by the said C. J. Kubach under his contract with the said Valley Gas & Fuel Company aforesaid, and was, until the commission of the acts hereinafter mentioned, in process of construction without interruption by one Davis & Farnum, manufacturing company, a corporation organized under and by virtue of the laws of the State of Massachusetts, engaged in the business of manufacturing gas holders and gas tanks, under a contract with the Valley Gas & Fuel Company for the said plaintiff; that said water tank is to be sixty-two feet in diameter by twenty feet nine inches in height, and of a capacity of about 467,700 gallons of water, said tank
21 to be made of sheet steel and iron to have steel bottoms thoroughly riveted and made water tight, with sides consisting of four steel rims each, of about five feet in height, thoroughly

riveted and made water tight, on the top and outside of said tank a runaround of steel two feet six inches in width, together with braces for said tanks sixty feet nine inches in height, with twenty girders, reinforced with forty-eight tie-bars, and also wind braces; the textile strength of said water tank to be 62,000 pounds to the square foot; that inside of the said water tank is to be erected the steel gas holder of a capacity of 100,000 cubic feet of gas, consisting of two lifts with proper curbs and cups, each lift being made of steel, eight sheets, with cups and curbs all properly constructed and completed, the same to be done as quickly and speedily as possible, the said holder to be all complete and delivered of the best material suitable for such purpose and in a good and workmanlike manner, for the benefit of the said plaintiff in enabling her to complete the erection of the said gas works as hereinbefore set forth; that the said water tank and holder when completed will cost the sum of $13,685.00; that all the iron and steel used in the construction of said tank and gas holder are upon the ground ready to be put in place, and that said tank at this time is erected to the height of 15 feet and nine inches, and if the said contractors so engaged in erecting said work shall be allowed to complete the said tank they will in the course of a week or ten days have the same fully completed, and within six weeks from this time will have the gas holder completed and
22 put in place ready to be delivered to the said plaintiff; and the said plaintiff further avers that if the said work of erecting said gas works can be continued peaceably and without interference from the said defendant, that the same will be completed and ready for operations within the period of about six weeks from the date hereof;

And the said plaintiff further shows and alleges that while the said plaintiff and said contractors and subcontractors were lawfully and peaceably engaged in the erection of said gas works and gas holders, up to and including the 25th day of February, 1902, on the said 25th day of February, 1902, the said defendant, The City of Los Angeles, combining and confederating with one James R. C. Burton, and with divers and sundry persons to the said plaintiff unknown, in the name of the people of the State of California, instituted a proceeding in the police court of the city of Los Angeles, against one F. A. Smith and one Thaddeus Lowe, then and there in the employ of the Valley Gas & Fuel Company in the erection of said gas works on the said premises of the said plaintiff hereinbefore described, charging the said F. A. Smith and the said Thaddeus Lowe with having committed a misdemeanor in that they did wilfully and unlawfully erect and cause to be erected certain works establishments and manufactory for the manufacture of gas and a certain reservoir and receptacle for the storage of gas within the corporate limits of the said city of Los Angeles attempted to be described in said purported ordinance attempted to be passed by the city council of the city of Los Angeles on the 25th day of
23 November, 1901, last hereinbefore set forth; and thereupon, upon the complaint filed in said proceedings in the said

police court by the city of Los Angeles on the 27th day of February, 1902, caused the arrest and detention of the said Thaddeus Lowe and the said F. A. Smith upon a warrant issued by the judge of said police court of the city of Los Angeles for the alleged violation of the said city ordinance; that on the first day of March, 1902, the said city of Los Angeles again combining and confederating with the said James R. C. Burton and with divers and sundry persons to this plaintiff unknown, in the name of the people of the State of California, instituted another proceeding in the police court of the city of Los Angeles against the said F. A. Smith, and the said Thaddeus Lowe, and also against H. S. Stephens, W. H. Bolte, E. E. Miles, and William A. Kennedy, then and there engaged upon said premises in the employ of the said Valley Gas & Fuel Company or of other persons engaged on the work of erecting said gas works for the said plaintiff on the premises of the said plaintiff hereinbefore described, charging the said F. A. Smith and the said Thaddeus Lowe and the said H. S. Stephens and the said W. H. Bolte, and the said E. E. Miles and the said William A. Kennedy with having committed a misdemeanor in that they did wilfully and unlawfully erect and cause to be erected certain works, establishments, and manufactory for the manufacture of gas, and a certain tank, reservoir and receptacle for the storage of gas within the corporate limits of the said city of Los Angeles, and outside of the limits of the
24 alleged district described in said purported ordinance attempted to be passed by the city council of the city of Los Angeles on the 25th day of November, 1901, as hereinbefore set forth; and thereupon, on the complaint filed in said proceedings in said police court of the city of Los Angeles on the 1st day of March, 1902, caused the arrest and detention of the said F. A. Smith, Thaddeus Lowe, H. S. Stevens and W. H. Bolte, E. E. Miles and William A. Kennedy, upon a warrant issued by the judge of the said police court of the city of Los Angeles for the violation of the said alleged ordinance;

That afterwards, on the 1st day of March, 1901, the said city of Los Angeles, again combining and confederating with the said James R. C. Burton, and with divers and sundry other persons, to said plaintiff unknown, in the name of the people of the State of California, instituted another proceeding in the police court of the city of Los Angeles against the said F. A. Smith, Thaddeus Lowe, William Bolte, H. S. Stephens, W. A. Kennedy, E. E. Miles, Morton Daly, Thomas Malone, Thomas A. Scott, William Hoff, Ransom Kallahan, W. B. Burner, E. B. Glasgow, Nolan J. Breston, G. J. Odell, and Elmer Edwards, engaged in the erection of the said gas works for the said plaintiff or her contractors on the premises of the said plaintiff hereinbefore described in carrying out the contracts entered into between the said plaintiff and the said Valley Gas & Fuel Company for the erection of the said gas works aforesaid, charging the said F. A. Smith, Thaddeus Lowe, William Bolte,
H. S. Stephens, W. A. Kennedy, E. E. Miles, Morton
25 Daly, Thomas Malone, Thomas A. Scott, William Hoff, Ran-

som Kallahan, W. B. Burner, E. B. Glasgow, Nolan J. Breston, G. J. Odell, and Elmer Edwards, with having committed a misdemeanor in that they did wilfully and unlawfully erect and cause to be erected certain works, establishments and manufactory for the manufacture of gas, and a certain tank, reservoir and receptacle for the storage of gas within the corporate limits of said city of Los Angeles, and outside of the limits of the alleged district described in the said purported ordinance attempted to be passed by the city council of the city of Los Angeles on the 25th day of November, 1901, as hereinbefore set forth; and thereupon, upon the complaint filed in said proceeding in the said police court of the city of Los Angeles on the 3rd day of March, 1902, the said city of Los Angeles caused the arrest and detention of the said Thaddeus Lowe, F. A. Smith, William Bolte, H. S. Stephens, W. A. Kennedy, E. E. Miles, Morton Daly, Thomas Malone, Thomas A. Scott, William Hoff, Ransom Kallahan, W. B. Burner, E. B. Glasgow, Nolan J. Breston, G. J. Odell, and Elmer Edwards, upon the warrant issued by the judge of the said police court of the city of Los Angeles for the alleged violation of said alleged city ordinance.

The plaintiff further alleges and avers that the arrest and detention of the said employees of the said plaintiff and her said contractors whose names are hereinbefore set forth has seriously interfered with and interrupted the work of the said plaintiff and of her said contractors in erecting the said gas works, and is in
26 violation of the rights of the said plaintiff as acquired under and by virtue of her contract with the said Valley Gas & Fuel Company, and in violation of the rights granted to the said plaintiff by the City of Los Angeles on the 22nd day of November, 1901;

And the said plaintiff further alleges that afterwards, on the 3rd day of March, 1902, the City of Los Angeles, recognizing the invalidity of the said alleged ordinance so by the common council of the city of Los Angeles attempted to be passed and adopted on the 25th day of November, 1901, as hereinbefore set forth, by its mayor and council attempted to pass another purported ordinance entitled "An ordinance amending ordinance number 6663, new series, entitled, 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks. or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," which said purported ordinance is in words and figures as follows:

Ordinance No. 7029 (new series).

An ordinance amending ordinance No. 6663, new series, entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," approved August 26, 1901, by amending section 1 of said ordinance.

The mayor and council of the city of Los Angeles do ordain as follows:

SECTION 1. That section 1 of ordinance No. 6663, new series, entitled "An ordinance prohibiting the erection or maintenance
27 of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," approved August 26, 1901 be, and the same is hereby amended to read as follows:

SECTION 1. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment or manufactory for the manufacture of gas; or any tank, reservoir or other receptacle for the storage of gas within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to-wit:

Beginning at the intersection of the center line of the official bed of the Los Angeles river with the south charter boundary line of the city of Los Angeles; thence westerly along said south charter boundary line to the center line of Santa Fe avenue; thence northerly along the center line of Santa Fe avenue to the center line of Violet street; thence westerly along the center line of Violet street to the center line of Wilson street; thence northerly along the center line of Wilson street to the center line of Atlantic street; thence westerly along the center line of Atlantic street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of Palmetto street; thence easterly along the center line of Palmetto street to the center line of Molino street; thence northerly along the center line of Molino street to the center line of Fourth street; thence easterly along the center line of Fourth street to the prolongation southerly of the center line of Santa Fe avenue; thence northerly along said prolonged center line of Santa Fe avenue and along the center line of Santa Fe avenue to the center line of First street; thence easterly along the center line of First street to the center line of Center street; thence northerly along the center line of Center street to the center line of
28 Aliso street; thence westerly along the center line of Aliso street to the center line of Alameda street; thence northerly along the center line of Alameda street to Main street; thence along Main street to the intersection of Main and San Fernando streets; thence northeasterly along the center line of San Fernando street to the center line of Redondo street; thence southeastelry, following the line of the Southern Pacific railway on Redondo street and Alhambra avenue to the official bed of the Los Angeles river; thence southerly along the official bed of the Los Angeles river to the point of beginning.

The avenue designated herein as Santa Fe avenue is the avenue lying in the district bounded by the Los Angeles river on the east and Alameda street on the west, and extending in a northerly and southerly direction between these two lines.

SECTION 2. The city clerk shall certify to the passage of this ordinance and shall cause the same to be published once in the Los

Angeles Daily Journal, and thereupon and thereafter it shall take effect and be in force.

I hereby certify that the foregoing ordinance was adopted by the council of the city of Los Angeles at its meeting of March 3rd, 1902.

C. H. HANCE, *City Clerk.*

Approved this 3rd day of March, 1902.

M. P. SNYDER, *Mayor.*

And the said plaintiff further alleges that she is advised and therefore avers that said purported ordinance last herein set forth attempted to be passed by the city council of the city of Los Angeles on the 3rd day of March, 1902, is void and invalid in that it is uncertain and unreasonable, and is an attempt to regulate in an
29 unlawful manner and without authority the business of erecting gas works within the city of Los Angeles and is in violation of the rights of the said plaintiff, secured to her by virtue of her contract entered into between her and the said Valley Gas & Fuel Company, in violation of the rights secured and granted to her by the City of Los Angeles on the 22nd day of November, 1901, as aforesaid, and is in violation of the provisions of the constitution of the State of California, and of the Constitution of the United States, prohibiting the passing of any law impairing the obligations of contracts.

And the said plaintiff further says and alleges that said ordinance last hereinbefore set forth was on the 3rd day of March, 1902, approved by the mayor of the city of Los Angeles, and was afterwards, on the 5th day of March, 1902, published in the Los Angeles Daily Journal, as in and by said alleged ordinance provided. Plaintiff is advised and therefore avers that if said ordinance is a valid ordinance in so far as it may have been regularly adopted by the City of Los Angeles and approved by the mayor and published in the Los Angeles Daily Journal as aforesaid, that the same has repealed the alleged ordinance heretofore attempted to be passed by the city council of the city of Los Angeles on the 25th day of November, 1901, and that said ordinance of November 25th, 1901, as hereinbefore set forth is thereby made no longer of any force and effect.

And the said plaintiff further says and alleges that she has been endeavoring in all respects as she lawfully might, to erect and have erected upon the premises hereinbefore described the said gas
30 works, but that while the men in the employ of the said plaintiff and of the said subcontractors by her engaged in the contracts aforesaid, were engaged in the erection of said gas works, the City of Los Angeles, on the 6th day of March, 1902, again combining and confederating with the said James R. C. Burton, and with divers and sundry other persons to this plaintiff unknown, in the name of the people of the State of California, instituted another proceeding in the police court of the city of Los Angeles against the said Thaddeus Lowe, F. A. Smith, M. Daly, R. Colahan, A. Burgess, W. B. Verner, F. Mullen, E. V. Glasgow, J. Ryan, J. Pelo, P. Hussey, R. J. Nieto, C. H. Tyler, W. Huff, T. A. Sealt, W. Bastock, W. Nolan,

H. S. Malone, J. I. Alvarez, A. J. Shaw, M. Ortlip, J. Breslin, G. O'Dell, E. E. Miles, employees engaged in the erection of said gas works upon the premises aforesaid, charging said F. A. Smith and the said Thaddeus Lowe and the said M. Daly and the said R. Colahan and the said A. Burgess and the said W. B. Verner and the said F. Mullen and the said E. V. Glasgow and the said J. Ryan and the said J. Pelo and the said P. Hussey and the said R. J. Nieto and the said C. H. Tyler and the said W. Huff and the said T. A. Sealt and the said W. Bastock and the said W. Nolan and the said H. S. Malone and the said J. I. Alvarez and the said A. J. Shaw and the said M. Ortlip and the said J. Breslin and the said G. O'Dell and the said E. E. Miles with having committed a misdemeanor in that they did wilfully and unlawfully erect or cause to be erected, maintain or cause to be maintained, certain works, establishments
31 and manufactory for the manufacture of gas, and a certain tank, reservoir and receptacle for the storage of gas within the corporate limits of the said city of Los Angeles, and outside of the limits of the alleged district described in the said purported ordinance attempted to be passed by the city council of the city of Los Angeles on the 3rd day of March, 1902, as hereinbefore set forth; and thereupon, upon the complaint filed in said proceeding in said police court of the city of Los Angeles on the 6th day of March, 1902, caused the arrest and detention of the said Thaddeus Lowe, F. A. Smith, M. Daly, R. Colahan, A. Burgess, W. B. Verner, F. Mullen, E. V. Glasgow, J. Ryan, J. Pelo, P. Hussey, R. J. Nieto, C. H. Tyler, W. Huff, T. A. Sealt, W. Bastock, W. Nolan, H. S. Malone, J. I. Alvarez, A. J. Shaw, M. Ortlip, J. Breslin, G. O'Dell, E. E. Miles upon a warrant issued by the judge of the said police court of the city of Los Angeles for the alleged violation of the said alleged ordinance.

And the said plaintiff further shows and alleges that the said City of Los Angeles, continuing to combine and confederate with the said James R. C. Burton, and with divers and sundry persons to this plaintiff unknown, threatens, in the name of the people of the State of California, to institute other proceedings in the police court of the city of Los Angeles against the employees of the said plaintiff and of the said contractors engaged in the erection of said gas works on the premises of the said plaintiff, and threatens to charge them and each of them with having committed other misdemeanors,
32 charging them and each of them with wilfully and unlawfully erecting or causing to be erected, maintaining or causing to be maintained, works, establishments or manufactories for the manufacture of gas, or tanks, reservoirs or receptacles for the storage of gas within the corporate limits of the city of Los Angeles, and outside of the limits described in said purported ordinance attempted to be passed by the said council of the city of Los Angeles on the 3rd day of March, 1902, as hereinbefore set forth; and the said City of Los Angeles threatens to cause the arrest and detention of said employees engaged in the erection of said gas works, and to imprison and confine them for alleged violations of the said city ordinance; and the

said City of Los Angeles threatens that if the said plaintiff continues to carry on her said work in which she is engaged in completing the said gas works and manufactory for the manufacture of gas, that it will arrest all persons employed and engaged in said work until it will have stopped the construction of said gas works and compelled the said plaintiff to desist from the erection thereof.

And the said plaintiff avers that unless the defendant, The City of Los Angeles, is restrained and enjoined by this court from executing its said threats, that the said City of Los Angeles will arrest and continue to arrest the men employed in the erection of said gas works on the premises of the said plaintiff until said work is stopped, and the said plaintiff is unable to complete the said undertakings entered into by her in the erection of said gas works aforesaid.

And the said plaintiff further shows and alleges that ever
33 since the inception of the said enterprise so instituted, commenced and undertaken by the said plaintiff the said defendant The City of Los Angeles and the municipal authorities thereof, its officers and agents, have continuously thrown obstacles in the way of the successful completion of the said enterprise of the said plaintiff, and have continuously and systematically attempted to thwart and frustrate the plans of the said plaintiff; and have interfered with and interrupted her said work in various portions thereof, that immediately after the organization, at the instance of and for the benefit of the said plaintiff of the said Valley Gas & Fuel Company, the said city council of the city of Los Angeles attempted to pass and adopt the ordinance number 6663, new series, which was adopted on the 26th day of August, 1901, as aforesaid, entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles;" and afterwards, when the said plaintiff had purchased, within the district prescribed by the said ordinance last hereinbefore referred to, the land upon which she proposes to erect the said gas works, and when, on or about the 28th day of September, 1901, an application had been made to the board of fire commissioners of the city of Los Angeles for a permit to erect gas works upon said premises, the said city council considered and deliberated upon an ordinance then and there introduced in said city council of the city of Los Angeles, entitled "An ordinance amending ordi-
nance No. 6663, new series, entitled 'An ordinance prohibit-
34 ing the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26, 1901, by amending section 1 of said ordinance," the object of said ordinance being to further restrict the limits of the district in the city of Los Angeles in which it was lawful to erect and maintain gas works, by which said ordinance it was proposed to eliminate from the district theretofore described in the alleged ordinance adopted on the 26th of August, 1901, all that portion of said district lying between San Fernando street on the north and west, Sotello street and Leroy street on the south and west, and

the Los Angeles river on the east, in which was particularly situated the land owned and purchased by the said plaintiff as aforesaid, and upon which it was proposed by the said plaintiff to erect the said gas works; that such proceedings were had in the said city council of the city of Los Angeles on the presentation and consideration of said ordinance that the same was by the said city council referred to the committee on legislation of said city council, and thereupon the hearing upon the application theretofore made to the said board of fire commissioners was suspended, and the same continued entirely suspended by the said board of fire commissioners while the said matter was pending before the said committee on legislation of the said city council of the city of Los Angeles, and for upwards of two weeks; that during the time that said application for a permit to erect gas works upon the premises of the said plaintiff above referred to was still pending before the said board of fire commissioners as afore-
35 said, and while the question of the adoption of the said proposed ordinance was still pending before the said legislative committee of the said city council, the said board of fire commissioners were induced to consider and did consider and agree to the adoption of a certain rule and regulation in reference to applications for permits to erect gas works, which said rule and regulation is hereinafter referred to; that after such determination of the said board of fire commissioners to adopt said rule and regulation hereinafter referred to, said proposed ordinance proposing to restrict the limits of said district in which it was lawful to erect gas works as aforesaid came before the said city council of the city of Los Angeles on the report of the said legislative committee, the said legislative committee having reported against the adoption of the said ordinance; and thereupon, at the next meeting of the said board of fire commissioners of the city of Los Angeles the said rule and regulation hereinafter referred to, having theretofore been considered by the said board of fire commissioners as aforesaid, was, at the meeting of the board of fire commissioners on or about the 25th day of October, 1901, adopted in words and figures as follows: "Whereas, applications are on file with this board for permission to erect gas manufacturing plants at different points within the district to which said plants are limited; and, whereas, a very great majority of the property owners living in the vicinity of locations for which applications are made protest against the granting of permits; and, whereas, this board is satisfied that the respective
36 applicants for permission to build are attempting to engage in the business of the distribution of gas for general purposes, including its use for fuel and power, without first procuring a franchise from the city for said right; now, therefore, be it resolved, that all applications now pending before this board for permission to erect gas manufacturing plants are hereby denied; that hereafter, in all cases where an application for permission to erect a gas manufacturing plant shall be made to this commission, the said application shall state whether or not the gas so manufactured is to be

supplied to the inhabitants of the city of Los Angeles for illuminating purposes only. Said application shall be verified by the oath of the applicant, and in case it shall appear to the commission that no proper ground exists for the denial of the application, and that said gas is to be used for illuminating purposes only, the same shall be forthwith granted. But in case it shall appear that the gas is to be furnished for general purposes, such as fuel, power, etc., then the applicant therefor must procure a franchise from the city of Los Angeles to distribute gas before his said application will be finally granted by this commission," the effect of which rule was to dismiss and deny the application theretofore made for permission to erect gas works upon the premises of the said plaintiff as hereinbefore set forth; that afterwards, on the 1st day of November, 1901, the said plaintiff having complied with all the rules and regulations of the said board of fire commissioners, made an application on her own behalf for a permit to erect gas works upon said premises hereinbefore described, and afterwards, on the 22nd day of November, 1901, the said
37 board of fire commissioners granted the said permit to the said plaintiff as hereinbefore set forth, and thereupon the said city council of the city of Los Angeles, as soon thereafter as they met, to wit, on the 25th day of November, 1901, attempted to pass and adopt the ordinance No. 6779, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26, 1901, by amending section 1 of said ordinance," as hereinbefore set forth; that in addition to the acts of the said municipal authorities of the said city of Los Angeles hereinbefore set forth, on or about the 7th day of October, 1901, the said city council of the city of Los Angeles attempted to pass a certain other purported ordinance known as ordinance No. 6726, new series, entitled "An ordinance prohibiting the use of any public street or thoroughfare in the city of Los Angeles for the purpose of laying down or maintaining therein any pipe, conduit or connections therewith without a franchise," wherein and whereby the said city of Los Angeles attempted to ordain that it should be unlawful for any person, firm or corporation to lay down any pipe, conduit or connections therewith in any public street or thoroughfare in the city of Los Angeles for the purpose of supplying said city or its inhabitants with fresh water or with gas used exclusively for illumination or with other illuminating light, without first obtaining a permit from the superintendent of streets to make the necessary excavations therefor, and that
38 any person, firm or corporation desiring to obtain such permit should file with the superintendent of streets an application therefor in writing, setting forth the public streets or thoroughfares and the particular portions thereof which it was desired to excavate, the size and character of the excavations to be made, and specifically the purpose for which the pipe, conduit or connection therewith was to be used, whether for water, gas or electricity,

and if for gas or electricity that said gas or electricity was to be supplied solely to said city or its inhabitants to be used exclusively for illumination, and that said application must be verified by the oath of such person, or by the oath of a member of such firm or by the oath of the president and secretary of such corporation as the case may be; that thereafter, when the said plaintiff desired to make an application for permit to excavate the streets of the city of Los Angeles for the purpose of laying pipes in order to distribute to the citizens of the city of Los Angeles gas by her to be manufactured, for the purpose of supplying them with artificial light, the superintendent of streets of the city of Los Angeles unlawfully required of the said plaintiff an application therefor in writing, setting forth the public streets and thoroughfares, and the particular portions thereof, which it was desired by the said plaintiff to excavate, the size and character of the excavations to be made, and specifying the purpose for which the pipe, conduit or connections therewith was to be used, and that said gas was to be supplied solely for the city or its inhabitants to be used exclusively for illumination, and required that the said
39 application should be verified by the oath of the said plaintiff, all of which requirements were unlawful, and were for the purpose of annoying, harassing, impeding, hindering and delaying the said plaintiff in her attempt to carry out successfully the lawful enterprise in which she was engaged; that thereafter, in addition to the adoption of the said purported ordinance so attempted to be adopted by the city council of the city of Los Angeles, and in addition to the acts of the said superintendent of streets of the city of Los Angeles hereinbefore set forth, the said city of Los Angeles, through its city attorney, prosecuted the proceedings instituted by the said James R. C. Burton hereinbefore set forth for the arrest of and detention of the men employed in the construction and erection of the said gas works of the said plaintiff; and all of which acts and doings on the part of the city of Los Angeles, its municipal authorities, officers and agents as hereinbefore set forth the said plaintiff charges and avers were for the purpose of hindering, harassing, impeding, delaying and frustrating the efforts and attempts of the said plaintiff to carry out the lawful business and enterprise so undertaken by her as aforesaid, and were instituted and prosecuted for the purpose of compelling the said plaintiff to stop and abandon the further prosecution of said enterprise.

And the said plaintiff is informed and believes and upon such information and belief alleges that the said defendant The City of Los Angeles and the municipal authorities, officers and employees thereof were in their acts and doings hereinbefore set forth
40 wilfully and unlawfully instigated, advised and controlled by the officers, attorneys, agents and employees of the Los Angeles Lighting Company, a corporation organized under the laws of the State of California, engaged in the manufacture and supplying of gas in the city of Los Angeles, and which said company has for upwards of ten years last past, enjoyed a monopoly of the gas

business in the said city of Los Angeles; that said Los Angeles Lighting Company, through its officers, attorneys, agents and employees, has had sufficient influence with the municipal government of the city of Los Angeles, and with its officers, to bring about the passage and adoption of the alleged ordinances hereinbefore set forth, which the said city council of the city of Los Angeles has attempted to adopt since the commencement of the enterprise undertaken by the plaintiff, and has had sufficient influence with the officers and employees of the said city of Los Angeles to compel them to enforce and attempt to enforce the alleged ordinances so attempted to be passed and adopted by the city council of the city of Los Angeles as aforesaid against the said plaintiff, her agent, contractors and employees engaged in the erection of said gas works and the laying of pipes in the streets of the city of Los Angeles on behalf of the said plaintiff in enabling her to carry out the enterprise aforesaid; that all of said ordinances attempted to be passed and adopted by the city council of the city of Los Angeles restricting the limits of the city of Los Angeles in which it was lawful to erect gas
41 works as prescribed by the ordinance adopted by the city council of the city of Los Angeles on the 26th day of August, 1901, herein set forth, were prepared by the attorneys and agents of the said Los Angeles Lighting Company and by them presented to the members of the city council of the city of Los Angeles for adoption; that before the attempted adoption of the said alleged ordinance of the 25th day of November, 1901, hereinbefore set forth, the said Los Angeles Lighting Company, through its attorneys and agents, in order to comply with the rules and regulations of the said city council that before the passage of any ordinance a printed copy thereof should be furnished to each of the members of the city council of the said city of Los Angeles, caused to be printed and distributed to the members of the city council of the city of Los Angeles printed copies of the proposed ordinance, which the said city council afterwards, on the 25th day of November, 1901, attempted to adopt and pass as aforesaid; that the said street superintendent of the city of Los Angeles, under the restrictions purporting to be placed upon him by the city council of the city of Los Angeles by the attempted adoption of the alleged ordinance number 6726, new series, last herein referred to, being compelled to demand of the said plaintiff a verified application for a permit to open the streets of the city of Los Angeles for the purpose of laying pipes therein for the purpose of distributing gas by her to be manufactured, contrary to the rights of the said plaintiff to use the streets of the said city of Los
42 Angles for the purpose of laying pipes therein, as guaranteed to her by section 19, article XI, of the constitution of the State of California, that thereupon the said Los Angeles Lighting Company, its agents and employees, caused to be and had printed and caused to be delivered by its agents to the said superintendent of streets of the city of Los Angeles, printed blanks prepared by their attorneys for applications for permits to excavate in public streets of the city of Los Angeles, a copy of which blank is hereto attached

and marked Exhibit A, and made a part hereof as though hereinafter specifically set forth, reference thereunto being had; that the said Los Angeles Lighting Company, its officers and agents, combining and confederating with the said James R. C. Burton and with divers and sundry persons to the said plaintiff unknown, have compelled the city attorney of the city of Los Angeles and his deputies and assistants to prepare the complaints in the proceedings instituted by the said James R. C. Burton in the name of the people of the State of California against the employees of the said plaintiff and her said contractors engaged in the erection of the said gas works as hereinbefore set forth, and have induced the filing of said complaints and the issuance of the warrants thereon and the arrest and imprisonment and detention by the officers of the city of Los Angeles of the said employees; and that the said Los Angeles Lighting Company, by its officers, attorneys, agents and employees, has boasted and threatened that if the said prosecutions so instituted by the said James R. C. Burton against the employees of the said plaintiff and her contractors shall fail, and if the said ordi-
43 nances hereinbefore set forth shall be declared void and invalid, they will, by their influence and their efforts, secure the passage by the city council of the city of Los Angeles of an ordinance regulating the gas business in the city of Los Angeles and requiring the payment of a license, which license they have boasted and threatened shall be prohibitory in its nature and so high as to prevent the said plaintiff from carrying on the business of manufacturing and distributing gas within the city of Los Angeles.

And plaintiff further alleges that each and every of the acts aforesaid so performed by the city of Los Angeles, its officers, agents and employees, were done and performed, not for the purpose of protecting any public interest or preserving any public right, but that said acts and each of them were suggested and formulated by the said Los Angeles Lighting Company, its officers, attorneys, agents and employees, solely for the purpose of protecting the said Los Angeles Lighting Company in the enjoyment of that monopoly which has continued for upwards of ten years, as hereinbefore alleged, and for the purpose of depriving the plaintiff of vested rights in property and of the privilege of pursuing her lawful undertaking and enterprise as the same is hereinbefore specifically set forth, in the exercise of which rights and privileges she is protected by the provisions of the constitution of the State of California and the Constitution of the United States.

And the said plaintiff further shows and alleges that the said territory surrounding the premises of the said plaintiff hereinbefore described, in which the said gas works of the said plaintiff are
44 being erected, and which was by ordinance No. 6663, new series, hereinbefore set forth, a portion of the territory within which the city of Los Angeles permitted the maintenance of gas works, is and was a district devoted to manufacturing and commercial enterprises almost exclusively; that in said district, prior to the purchase of the property herein described by the plaintiff and upon

which the said gas works are being erected for this plaintiff as aforesaid, there was in operation a soap factory; that at all times since the 1st day of August, 1901, there has been and is now maintained within the district bounded by Redondo and Alhambra streets, the Los Angeles river and San Fernando street, in said city of Los Angeles, one wool-pulling factory, which is directly across North Main street from the said premises of the said plaintiff, three wineries, numerous oil wells in operation, an extensive iron foundry in active operation, a brass foundry, and an extensive oil refinery; and that there is a great deal of vacant and unoccupied land which is and will continue to be comparatively worthless except for the purposes of the erection thereon of manufacturing establishments; that immediately adjacent to the easterly line of said district last herein described are the tracks of the Southern California railway, on which are operated the freight and passenger trains of the Santa Fe railroad; that east of that and adjacent thereto is the Los Angeles river, and that east thereof is the right-of-way and tracks of the San Pedro, Los Angeles and Salt Lake railroad; that immediately east of those tracks an extensive tannery is located and in operation; that immediately north of said district and north of San Fernando street,
45 and adjacent to the tracks of the Santa Fe railroad are the oil tanks and refinery of the Standard Oil Company in extensive operation; that prior to the granting of the permit by the board of fire commissioners of the city of Los Angeles to the said plaintiff on the 22nd day of November, 1901, the said board of fire commissioners and the members of said commission individually and jointly visited and examined the said premises and the said district surrounding the same, and having heard the protests of all persons who appeared before them, decided and determined by the granting of said permit that said premises were in all respects a suitable place upon which to erect the said gas works and to conduct the business of manufacturing gas.

And the said plaintiff alleges that said gas works are being constructed and are to be completed upon concrete foundations, with a superstructure of brick, steel and iron, of the best material procurable, and are not combustible, and that the same are so firmly and substantially constructed that there can be no danger from explosions, bursting or leakage; that all the machinery now in place therein or to be placed therein is of the most approved pattern, and constructed in accordance with the latest devices and improvements known in the manufacture of gas; that said works can and will be operated and maintained by the said plaintiff by the use of the said devices and improvements and the said machinery therein contained, so that there will be no leakage or escape of odors, and that the same will not create a nuisance and will not interfere in any way
46 with the health, comfort, safety or welfare of the inhabitants of the said district and territory in which the said gas works are located upon the premises of the suid plaintiff as hereinbefore described, or of any other of the inhabitants of the said city of Los Angeles.

And the said plaintiff avers and alleges that if the said city of Los Angeles, its officers and employees shall be allowed to arrest and to continue to arrest the employees and servants of the said plaintiff and her contractors so engaged in the completing and erection of said gas works, or in the operation and maintenance thereof when completed, and the said defendant is allowed to carry its said threats into execution, the said plaintiff will be deprived of the rights of property she has already acquired and she will suffer great and irreparable loss; that already, by the acts of the said defendant in hindering and delaying the said plaintiff in manner as hereinbefore set forth, in the erection of said gas works and carrying out the enterprise contemplated by her of manufacturing, distributing and selling gas, the said plaintiff has suffered damages of upwards of the sum of twenty-five thousand dollars ($25,000) in the loss of profits which would otherwise have accrued to her therefrom, that if by said acts and threatened acts of the said defendant the said plaintiff and her contractors are compelled to desist and cease the completion of said gas works, the said works partially completed as hereinbefore set forth and in their uncompleted condition, and the said materials consisting of steel plates, iron, etc., lying unprotected and uncovered upon the premises aforesaid, are

47 and will be exposed to the action of the elements and will be thereby greatly damaged and impaired in value and in imminent danger of complete destruction; that in the erection of said gas works, in the laying of pipe for the distribution of gas therefrom, and in the purchase of other materials to enable the said plaintiff to complete and carry out the said enterprise undertaken by her as aforesaid, the said plaintiff has already paid, laid out and expended upwards of the sum of fifty thousand dollars, over and above the cost of the premises hereinbefore described, and if the defendant is allowed to carry out its said threats the said amount so paid, laid out and expended by the said plaintiff will become and be almost a total loss to said plaintiff; that in the erection and construction of said gas works skilled mechanics are necessary, and the same have been brought from divers and sundry places, from great distance from the city of Los Angeles, to-wit, from Trenton in the State of New Jersey, Philadelphia in the State of Pennsylvania, Toledo in the State of Ohio, San Francisco in the State of California, and other places, and if said City of Los Angeles is allowed to execute its said threats and arrest the said men, said men threaten to and will leave the employ of the said plaintiff and her said contractors, and if said work shall be retarded and interrupted by reason of said threats and execution thereof by said City of Los Angeles, as it will be if said threats are executed, the said skilled laborers and mechanics so employed by the said plaintiff and her said contractors will become scattered and it will be impos-

48 sible to again obtain the services of said men or the services of like men in such employment; that if said defendant The City of Los Angeles is allowed to carry out the said threats the said employees of the said plaintiff and her said contractors will

be subjected daily to arrests for alleged violation of the alleged ordinances, and even though the said employees should successfully defend such prosecutions, said city threatens and said plaintiff verily believes it will continue to harass said plaintiff and said employees by repeated arrests for alleged violations of the said purported ordinances which plaintiff alleges to be invalid, and further, that pending the final determination of the validity of said alleged ordinances by the successful completeness of the defenses interposed against said prosecutions, the said plaintiff will be subjected to great expense, inconvenience and embarrassment, and all without any possible redress or adequate remedy at law, to the manifest injury and irreparable loss of the said plaintiff.

Wherefore, the plaintiff prays judgment:

First. That the said contract entered into between the said plaintiff and the City of Los Angeles by virtue of the permit granted to her on the 22nd day of November, 1901, be declared and determined to be a valid and existing contract between the City of Los Angeles and the said plaintiff, and that all alleged ordinances attempted to be passed by the city council of the city of Los Angeles in contravention thereof or in violation of the terms thereof be declared null and void as against the rights of the said plaintiff.

Second. That the said defendant The City of Los Angeles, its counsellors, attorneys, solicitors, officers, agents and em-
49 ployees, and all persons combining and confederating with it and each and every of them be enjoined and restrained from enforcing the said alleged ordinance No. 6779, new series, attempted to be adopted the 25th day of November, 1901, and entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26, 1901, by amending section 1 of said ordinance," or enforcing the said alleged ordinance No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26, 1901, by amending section 1 of said ordinance," against the said plaintiff or any of her agents, contractors, servants or employees, and from prosecuting or proceeding with any prosecutions commenced or to be commenced against the said plaintiff or any of her agents, contractors, servants or employees, or the employees of any of them, heretofore engaged, now engaged or that may hereafter be engaged in the erection of the said gas works upon the premises of plaintiff described in this complaint.

Third. That the said defendant, its counsellors, attorneys, solicitors, officers, agents and employees, and all persons combining and confederating with it and each and every of them, be enjoined and restrained from in any manner hindering, delaying, interfering with, obstructing or preventing the said plaintiff from carrying out
50 her said enterprise in erecting the said gas works upon the premises of the said plaintiff situate in the city of Los Angeles

and State of California as hereinbefore described, and that they further be enjoined from in any way interfering with the operation or maintenance or management of the said gas works of the said plaintiff;

Fourth. That plaintiff may have such other and further relief as the nature and circumstances of her case may require and as to this court may seem meet, and that plaintiff may have and recover her costs and disbursements in this action incurred.

LEE, SCOTT, BAILEY & CHASE,
LYNN HELM,
Attorneys for Plaintiff.

Duly verified.

EXHIBIT "A."

Application for Permit to Excavate in Public Streets.

(Ordinance No. 6726, new series.)

LOS ANGELES, CAL., ——, 190–.

To the street superintendent of the city of Los Angeles:

—— —— hereby applies for a permit to excavate in the following-named streets and portions of streets in the city of Los Angeles —— for the purpose of laying down therein —— and said applicant states that the size and character of the excavation to be
51 made, as aforesaid, is as follows: —— and that said —— is to be used for* ——.

—— ——, *Applicant.*

*State whether for water, gas, or electricity, and if for gas or electricity, that the same is to be supplied solely to said city or its inhabitants to be used exclusively for illumination.

STATE OF CALIFORNIA, } ss:
County of Los Angeles, }

—— —— being first duly sworn, says: That he is —— the applicant above named, and that the statements made in the foregoing application are true.

—— ——.

Subscribed and sworn to before me this — day of —— 190–.

—— ——,
Notary Public in and for the County of Los Angeles, State of California.

STATE OF CALIFORNIA, } ss:
County of Los Angeles, }

—— —— being first duly sworn, says: That he is —— the applicant above named, and that the statements made in the foregoing application are true.

—— ——.

Subscribed and sworn to before me this — day of —— 190–.

—— ——,

Notary Public in and for the County of Los Angeles, State of California.

Endorsed: Filed Mar. 10, 1902. C. W. Bell, clerk; by C. G. Keyes, deputy.

(Title of Court and Cause.)

Demurrer.

Comes now The City of Los Angeles, defendant in the above entitled action, and demurring to the complaint in said action, says:

52 That said complaint does not state facts sufficient to constitute a cause of action.

That the court has no jurisdiction of the person of the defendant, or the subject of the action.

W. B. MATHEWS,
City Attorney and Attorney for Defendant.

Los Angeles, March 14th, 1902.

Endorsed: Received copy of the within this 14 day of March, 1902. L. Helm, Lee, Scott, Bailey & Chase.
Filed Mar. 14, 1902. C. W. Bell, clerk; by W. L. Warren, deputy.

APRIL 1, 1902.

Demurrer sustained.
Attest:

C. W. BELL, *Clerk.*
By W. L. WARREN, *Deputy.*

Minutes Superior Court, Dept. 2.

FRIDAY, *April 11th*, 1902.

Minute Order.

(Title of Cause.)

Motion to strike out portions of complaint denied. Motion of defendant to dissolve restraining order granted. Demurrer to complaint sustained. It is therefore ordered by the court that the motion of the defendant to strike out parts of the complaint herein be denied; that, the restraining order hereinbefore made, be vacated

and dissolved, and that the demurrer of the defendant to the complaint herein be sustained, and that judgment be entered herein in favor of defendant on the demurrer and for costs.

(Title of Court and Cause.)

Judgment.

This cause coming on regularly for hearing upon the complaint filed herein and the demurrer filed thereto, Lynn Helm, Esq., and Messrs. Lee, Scott, Bailey & Chase appearing as counsel for the plaintiff, and W. B. Mathews, Esq., Messrs. Davis & Rush and W. R. Bacon, Esq., appearing as counsel for the defendant, the court having heard the argument of counsel, on the 11th day of
53 April, A. D. 1902, sustained the said demurrer, and ordered that judgment be had for the said defendant and for costs.

Wherefore, by reason of the law and the order of the said court, it is ordered, adjudged and decreed that the said plaintiff take nothing by said action, and that the said defendant do have and recover of the said plaintiff its costs and disbursements incurred in said action, amounting to the sum of $—.

Judgment entered September 22nd, 1902.

Filed Sep. 22, 1902. C. W. Bell, clerk; by C. G. Keyes, deputy. Docketed, Sep. 23, 1902; entered, Sep. 23, 1902; Book 105, page 190. By D. S. Burson, Jr., deputy clerk.

(Title of Court and Cause.)

Notice of Appeal.

To the clerk of said superior court, and to W. B. Mathews, Esq., attorney for said defendant:

Please take notice, that the plaintiff in the above entitled action hereby appeals to the supreme court of this State from the judgment therein made and entered in said superior court on the 22nd day of September, 1902, in favor of the said defendant in said action and against the said plaintiff, and from the whole thereof; said judgment being entered pursuant to an order of court entered in said case sustaining the demurrer to the complaint April 11th, 1902.

Dated September 22nd, 1902.

LYNN HELM,
LEE, SCOTT, BAILEY & CHASE,
Attorneys for Plaintiff.

54 Copy of above notice received and service acknowledged this 22nd day of September, 1902, and an undertaking on appeal is hereby waived.

W. B. MATHEWS,
Attorney for said Defendant.

Endorsed: Filed Sep. 22, 1902. C. W. Bell, clerk; by C. G. Keyes, deputy.

Clerk's Certificate.

STATE OF CALIFORNIA, } ss:
County of Los Angeles, }

I, C. W. Bell, county clerk and *ex-officio* clerk of the superior court in and for said county, hereby certify that I have compared the foregoing transcript with the original papers in the above entitled action now on file in my office, and that the same contains a full, true and correct transcript of the records on the appeal from the judgment in the case of Caroline W. Dobbins, plaintiff *vs.* The City of Los Angeles a municipal corporation, defendant, consisting of the complaint, demurrer, judgment and notice of appeal.

I further certify that an undertaking on appeal from the judgment, in due form, has been properly filed in time by the plaintiff, in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said superior court, this — day of Oct. 1902.

C. W. BELL, *Clerk*,
By —— ——, *Deputy*.

55 (Title of Court and Cause.)

Stipulation.

It is hereby stipulated and agreed by and between the respective counsel for plaintiff and defendant in the above entitled action that the foregoing is a full, true and correct transcript of the records on appeal from the judgment therein, and that the same contains full, true and correct copies of the complaint, demurrer, judgment and notice of appeal, and that the said appeal from the said judgment may be taken, heard and determined on the foregoing transcript.

And it is further stipulated, that an undertaking on appeal from the judgment, in due form, has been properly filed in time according to law.

Dated this 13 day of Oct., 1902.

LYNN HELM,
LEE, SCOTT, BAILEY & CHASE,
Attorneys for Plaintiff and Appellant.
W. B. MATHEWS,
DAVIS & RUSH,
W. R. BACON,
Attorney- for Defendant and Respondent.

56 Received copy of the within for the judge who tried the case this 20 day of Oct., A. D., 1902.

C. W. BELL,
County Clerk,
By D. S. BURSON, JR.,
Deputy Clerk.

Due service of the within, and receipt of a copy hereof, is hereby admitted this 20 day of Oct., A. D., 1902.

W. B. MATHEWS,
DAVIS & RUSH, &
W. R. BACON,
Attorney for Respondent.

57 In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Appellant,
vs.
CITY OF LOS ANGELES, Defendant and Respondent.
} L. A., No. 1330. Stipulation.

It is hereby stipulated, between the parties in the above entitled cause, by their respective attorneys, that an order may be entered in said cause in said supreme court, advancing said cause, and that the said case when so advanced may be submitted upon briefs filed in said cause, and in considering and deciding the same, the court may consider the briefs on file in the case of *Ex parte* Martin Daly on *habeas corpus*, criminal number 930. said case to be submitted on the third day of February 1903, at the time of the resubmission of the case of *Ex parte* Daly aforesaid.

And it is further stipulated that the appellant may within ten (10) days after such submission, file a reply brief in said cause.

LYNN HELM,
LEE, SCOTT, BAILEY & CHASE,
Attorneys for Plaintiff and Appellant.
W. B. MATHEWS,
Attorney for Defendant and Respondent.

Granted by the court.

Endorsed: Filed Feb. 7 1903. Frank C. Jordan clerk by J. C. Crooks deputy.

58 By the COURT: The within entitled cause is hereby submitted in accordance with the stipulation of the parties to be considered in conjunction with the case of *Ex parte* Daly Cr. 930.

BEATTY, *C. J.*

Feb'y 7 1903.

Endorsed: L. A. 1330 Caroline Dobbins *vs.* City of Los Angeles. Stipulation. Filed Feb. 7 1903. Frank C. Jordan clerk by J. C. Crooks deputy.

59 Endorsed: Filed May 29–1903. Frank C. Jordan, clerk, by J. C. Crooks, deputy.

(Opinion in the case of Caroline W. Dobbins *v.* City of Los Angeles, above referred to, is as follows:)

In Bank.

CAROLINE W. DOBBINS, Plaintiff and Appellant,
vs.
CITY OF LOS ANGELES, Defendant and Respondent.
} L. A., No. 1330.

This action was brought to obtain an injunction restraining the defendant, The City of Los Angeles, a municipal corporation, from enforcing certain ordinances of the city prohibiting the erection or maintenance of gas works within certain parts of said city. A demurrer to the complaint was sustained in the court below and judgment rendered for defendant. From the judgment plaintiff appeals.

On the 26th day of August, 1901, the city adopted an ordinance, No. 6663, by which it was provided that "it shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment, or manufactory, for the manufacture of gas; or any tank, reservoir, or other receptacle for the storage of gas, within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to-wit" (and then follows a description of the district). It was also provided that any person who should violate the above provision should be guilty of a misdemeanor, and upon conviction be punished by fine or imprison-
60 ment or both. On the 3rd day of March, 1902, the city adopted another ordinance No. 7029, amendatory of the said ordinance 6663. This second ordinanee merely amends the first by changing the boundaries of the area within which, the erection and maintenance of gas works was prohibited. These two ordinances are the only ones necessary to be considered. The plaintiff was engaged in erecting gas works within the territory in which the erection of such works was prohibited by the second ordinance and it is averred that, by procurement of the defendant, certain employees of plaintiff engaged in labor upon her said gas works have been arrested and prosecuted for a violation of said ordinance, and that defendant threatens to continue to arrest and prosecute her employees for such violation. The prayer of the complaint is that defendant be enjoined and restrained from enforcing said ordinances and from "prosecuting or proceebibg with any prosecution commenced or to be commenced" under said ordinances against plaintiff or any of her agents or employees. There are other averrments in the complaint which will be noticed hereafter.

The general contention of appellant that the ordinances in question are invalid and void because violative of the 14th amendment to the Federal Constitution, and of other constitutional guarenties State and Federal of the enjoyment of property, or vested rights, the equal protection of the law, etc., is not maintainable.

The ordinances were passed in the exercise of the police power which is fully granted to the city of Los Angeles by statutory law, by its charter, and by the constitution of the State. Its charter gives it power to suppress or prohibit all offensive places of business, and to regulate or prohibit explosives, combustibles, or inflammable material within the city, or any specified part thereof.

61 By the act of the State legislature of April 4, 1870, entitled "An act concerning gas works," (Stats. of 1869–70 p. 815) it is provided that cities "may also control the location and construction of works so that they may be erected on suitable localities to give the least discomfort or annoyance to the public." This act was expressly continued in force by subdivision 20 of section 19 of the political code. And by the State constitution, itself, (art. XI, sec. 11) it is provided that "any county, city, town or township may make and enforce within its limits all such local, police, sanitary or other regulations, as are not in conflict with general laws." There is no doubt therefore, that the exercise of this police power belongs to the respondent within its territorial limits; and the only question is whether the adoption of the ordinances in question was a legitimate exercise of it; for all property is held subject to that power. An ordinance obviously and undoubtedly foreign to any of the recognized purposes of the police power, and interfering with the ordinary enjoyment of the property would, no doubt, be held by a court to be invalid. But where the ordinance is reasonably within a proper consideration of, and care for, *and* public health, safety, or comfort, a court will not disturb the legislative act; it will not substitute its own views of what is proper in the premises for those of the legislative body. In Munn *v.* Illinois, 94 U. S. 113, the U. S. Supreme Court states the rule thus: If no state of circumstances could exist to justify a certain statute, then we may declare this one void because in excess of the legislative power of this State; but if it could, we must presume it did. Of the propriety of legislative interference, within the scope of the legislative power,

62 the legislature is the exclusive judge." This rule is very fully discussed and declared in Powell *v.* Commonwealth of Penn. 127 U. S. 617—the "oleomargarine" case. (See also Crowley *v.* Christianson, 137 U. S. 87, and Canfield *v.* United States, 167 U. S. 518). And it cannot be said judicially that volatile, inflammable, explosive, and bad smelling gas, is not within the category of things which interfere with the public safety, welfare and comfort, and therefore beyond the reach of the police power. The exercise of this power is not confined to the regulation of only such interferences with the public welfare and comfort as come strictly within the common law definition of a "nuisance." (*Ex parte* Lacey, 108 Cal. 326; *Ex parte* Schrader, 33 Cal. 283).

It is averred in the complaint that the said ordinances were adopted, not for the purpose of protecting public interests, but for the purpose of protecting and favoring a certain named company engaged in the manufacture and sale of gas in said city. But the motives which induce a legislative body to make a law cannot be

considered in a judicial proceeding in which the validity of the law in question is involved. In Cooley's Constitutional Limitations sixth edition, p. 231, it is said: "Although it has sometimes been urged at the bar that the courts ought to inquire into the motives of the legislature where fraud and corruption were alleged, and annul their action if the allegation were established, the argument has in no case been acceded to by the judiciary, and they have never allowed the inquiry to be entered upon. The reasons are the same here as those which preclude an inquiry into the motives of the governor in the exercise of the discretion vested in him ex-
63 clusively. He is responsible for his acts in such a case, not to the courts, but to the people;" and numerous authorities are referred to which sustain the text. (See also Hing *vs.* Crowley, 113 U. S. 703.)

It is also averred that prior to the adoption of the second ordinance plaintiff had made certain contracts with third parties to furnish materials for and do labor on gas works which she was about to erect, and had purchased land to be used as a site for such works within the territory where the erection of such works, under the first ordinance was permitted, and had expended a considerable amount of money in building the foundation of her contemplated works, and in partly erecting the same; and that by the second ordinance the boundaries of the excepted district were so changed as to put her said land outside of the territory where gas works were permitted. And it is further alleged that prior to the adoption of the second ordinance she had commenced to erect her works under a permit of the board of fire commissioners of said city in pursuance of the fire and building ordinances. And she contends, that even if the general principle relied on is not maintainable, these additional facts make the second ordinance invalid as an unwarranted interference with the enjoyment of property, an impairment of the obligations of contracts, etc. But this contention cannot be maintained. The ordinance provides that "it shall be unlawful for any person to erect or maintain" gas works outside of the described district. This language clearly includes works in course of construction as well as those to be begun in the future; and under the authorities the exercise of the police power clearly covers
64 prohibited buildings partly erected, although great hardship to the builder may follow. It is somewhat difficult to see exactly what is the character and significance of the alleged permit from the fire commissioners. Appellant contends that it was an express contract with the city to allow her to erect and maintain her gas works. We do not think that this conclusion results from the averments of the complaint. At all events there was nothing in this permit which took away from the city the police power which it afterward exercised. The city could not thus estop itself from making and enforcing proper police regulations. In Fertilizing Co. *v.* Hyde Park, 97 U. S. 659, the legislature of the State had granted to plaintiff the privilege of manufacturing fertilizers in the village of Hyde Park and conveying the products through its streets, and

plaintiff had expended $200,000 in constructing its plant; but it was held that notwithstanding these facts the village, by virtue of its police power, could prohibit the business and compel the plaintiff to abandon its works. In New Orleans Gas Co. *v.* Louisiana Light Co. 115 U. S. 672, the court say: "Rights and privileges arising from contracts with a State are subject to regulations for the protection of the public health, the public morals, and the public safety, in the same sense, and to the same extent, as are all contracts and all property, whether owned by natural persons or corporations. Whatever therefore in the manufacture or distribution of gas in the city of New Orleans proves to be injurious to the public health, the public comfort, or the public safety, may notwithstanding the exclusive grant to plaintiff, be prohibited by legislation, or by
65 municipal ordinance passed under legislative authority." (See also Barbour *v.* Connelly, 113 U. S. 27; Stone *v.* Miss. 101 U. S. 814; Butchers' Union Co. *v.* Crescent City Co. 111 U. S. 750; *Ex parte* Lacey 108 Cal. 326.)

Our conclusion is that the ordinances here involved are valid and that therefore the judgment should be affirmed. This view makes it unnecessary to consider the question elaborately discussed by counsel, towit, whether or not a court of equity will ever enjoin a criminal prosecution.

The judgment appealed from is affirmed.

McFARLAND, *J.*

We concur:
SHAW, *J.*
ANGELLOTTI, *J.*
LORIGAN, *J.*
HENSHAW, *J.*

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Appellant,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Respondent. } No. 1330.

On appeal from the superior court of the county of Los Angeles.

I Frank C. Jordan, clerk of the supreme court of the State of California, do hereby certify that the foregoing and annexed is
66 a true and correct copy of the opinion filed May 29th, 1903, in the above entitled cause, as shown by the records in my office.

Witness my hand and the seal of the court this 23rd day of July, A. D. 1903.

[Seal Supreme Court, State of California.]

FRANK C. JORDAN, *Clerk*,
By J. C. CROOKS, *Deputy*.

Endorsed: Filed: May 29th, 1903. Frank C. Jordan, clerk. By J. C. Crooks, deputy clerk.

67 In the Supreme Court of the State of California.

DOBBINS
vs.
CITY OF LOS ANGELES. } In Bank. L. A., No. 1330.

By the COURT: Rehearing denied, June 27, 1903, Beatty, C. J., Lorigan, J., Henshaw, J., dissenting; Vandyke, J., declining to act.

Endorsed: Filed Jun- 29 1903. Frank C. Jordan clerk by R. D. Duke deputy.

68 UNITED STATES OF AMERICA:

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error, }

To the Hon. William H. Beatty, chief justice of the supreme court of the State of California:

The petition of Caroline W. Dobbins respectfully shows that at all times hereinafter mentioned, the said defendant in error, The City of Los Angeles, is and was a municipal corporation duly organized under the laws of the State of California, and situate in the county of Los Angeles, in said State of California. That on or about the first day of August, 1901, the said plaintiff in error, contemplating the erection of gas works for the purpose of the manufacture, recovery, storage and distribution of gas for the purpose of supplying the inhabitants of the city of Los Angeles and inhabitants of cities neighboring and adjacent thereto, caused to be organized a corporation known as the Valley Gas and Fuel Company and the said Valley Gas and Fuel Company, was, at the instance of the said plaintiff in error, on or about the 8th day of August, 1901, duly organized under and by virtue of the laws of the State of California.

That after the organization of the said Valley Gas and Fuel Company, and on or about the 1st day of September, 1901, the plaintiff in error made and entered into a certain contract with the
69 said Valley Gas and Fuel Company to build, construct and erect for her on certain premises to be designated by her and as hereinafter described, certain gas works, including coke ovens and all things necessary for the manufacture, recovery, storage and distribution of gas, said gas works in themselves consisting of gas generators, gas washers, and scrubbers, purifier and gas holder and

tank, the same to be all complete and to be delivered to the said plaintiff in error on or before the 1st day of January, 1902.

That after the making of the said contract between the said plaintiff in error and the said Valley Gas and Fuel Company to erect and construct said works, the said plaintiff in error took such steps as were necessary to carry out her intentions as hereinbefore set forth, and the said Valley Gas and Fuel Company entered into divers and sundry contracts with divers and sundry persons to do the work necessary in the erection of said coke ovens and gas works.

That on or about the 26th day of August, 1901, the city council of the said city of Los Angeles, passed an ordinance known as ordinance No. 6663 (new series), entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," which ordinance was on the 26th day of August, 1901, approved by the mayor of the city of Los Angeles and duly published in the official paper of the said city of Los Angeles, which said ordinance is in words and figures as follows, to-wit:

70 Ordinance No. 6663 (new series).

An ordinance prohibiting the erection or maintenance of gas-works, gas tanks or reservoirs within certain portions of the city of Los Angeles.

The mayor and council of the city of Los Angeles do ordain as follows:

SECTION 1. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment or manufactory for the manufacture of gas; or any tank, reservoir or other receptacle for the storage of gas within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to wit:

Beginning at the intersection of the center line of the official bed of the Los Angeles river with the south charter boundary line of the city of Los Angeles; thence westerly along said south charter boundary line to the center line of Santa Fe avenue; thence northerly along the center line of Santa Fe avenue to the center line of Violet street; thence westerly along the center line of Violet street to the center line of Wilson street; thence northerly along the center line of Wilson street to the center line of Atlantic street; thence westerly along the center line of Atlantic street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of Palmetto street; thence easterly along the center line of Palmetto street to the center line of Molino street; thence northerly along the center line of Molino street to the center line of Fourth street; thence easterly along the center line of Fourth street to the prolonged center line of Santa Fe avenue; thence northerly along said prolonged center line of Santa Fe avenue to the center line of First street; thence easterly along the center line of

First street to the center line of Center street; thence northerly along the center line of Center street to the center line of Aliso street; thence westerly along the center line of Aliso street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of San Fernando street; thence easterly along the center line of San Fernando street to the center line of the official bed of the Los Angeles river; thence southerly along the official bed of the Los Angeles river to the point of beginning.

SECTION 2. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment in the city jail for not less than thirty (30) days nor more than one hundred (100) days, or by both such fine and imprisonment. Every day that such gas works, tank or reservoir is maintained in violation of the provisions of this ordinance, shall be deemed a separate offense within the meaning of this ordinance.

SECTION 3. Ordinance No. 174 approved July 2nd, 1885, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. The city clerk shall certify to the passage of this ordinance and cause the same to be published once in the Los Angeles Daily Journal and thereupon and thereafter it shall take effect and be in force.

I hereby certify that the foregoing ordinance was adopted by the council of the city of Los Angeles at its meeting of August 26th, 1901.

C. H. HANCE, *City Clerk.*

Approved this 26th day of August, 1901.

M. P. SNYDER, *Mayor.*

71 That thereafter, within the territory of the said city of Los Angeles within which by said ordinance last hereinbefore set forth it was lawful to erect or maintain gas works, gas tanks or reservoirs for the manufacture of gas, and on or about the 28th day of September, A. D. 1901, the said plaintiff in error, Caroline W. Dobbins, for the purpose of erecting gas works contemplated by her as aforesaid, purchased the following described premises situate in the city of Los Angeles and State of California, to-wit:

Part of lot fifteen, and all of lots sixteen, seventeen and eighteen, of block two, Pomeroy and Mills' subdivision of the Hollenbeck tract, as per map recorded in Book 5, page 199, miscellaneous records of said Los Angeles county.

Afterwards, and on or about the first day of November, A. D. 1901, the said plaintiff in error, Caroline W. Dobbins, pursuant to an ordinance of the city of Los Angeles known as ordinance No. 6108, adopted by the city council of the city of Los Angeles Decem-

ber 28th, 1899, and known as the "building ordinance," made application for the purpose of manufacturing, recovering and distributing gas, to the board of fire commissioners of the city of Los Angeles, a board authorized by the city charter of the city of Los Angeles, for a permit to erect gas works upon the premises hereinbefore described, for the manufacture, recovery and storage of gas, which said premises were within the limits described by said ordinance passed by the said council of the city of Los Angeles on the 26th day of August, 1901 aforesaid, in which it should be lawful to erect and maintain works for the manufacture of gas, the said gas so manufactured at said
72 works to be supplied to the inhabitants of the city of Los Angeles. That afterwards, on the 22nd day of November, 1901, upon the said application of the said plaintiff in error, Caroline W. Dobbins, for permission to erect and maintain said gas works, the said application was by the said board of fire commissioners duly granted and allowed. And thereupon, on the said 22nd day of November, 1901, the said plaintiff in error, Caroline W. Dobbins, gave directions to the said Valley Gas and Fuel Company to proceed to carry out its contract with her, and directed that said Valley Gas and Fuel Company erect the said gas works and coke ovens upon the premises of the said plaintiff in error hereinbefore described, and to commence work thereon at once. That immediately, and on the said 22nd day of November, 1901, pursuant to the directions of the said plaintiff, the said Valley Gas and Fuel Company entered into divers and sundry contracts with divers and sundry persons for the erection of certain portions of said gas works and coke ovens, and commenced the laying of the cement foundations for the water tank, gas holder, scrubbers and generator, which were to be erected thereon pursuant to the contract between the said Valley Gas and Fuel Company and the said plaintiff in error, for the benefit of the said plaintiff in error. That said foundations were laid at a cost of upwards of $2500.00, and were of great strength and very costly material, and that if the same should have to be destroyed or removed, it would cause irreperable injury and damage to the plaintiff in error, as the same were the foundations of all the work constructed by the Valley Gas and Fuel Company for the said plaintiff in error, as hereinafter specifically described.

73 That since the granting of the said permit to the said plaintiff in error by the said board of fire commissioners, the said plaintiff in error, through the said Valley Gas and Fuel Company by reason of the contract aforesaid, for the erection of said gas works, and on her behalf, and until the commission of the acts of the said defendant in error hereinafter set forth, was peaceably and lawfully engaged in the erection of the said gas works upon the premises of the said plaintiff in error hereinbefore specifically described, and there was erecting for the said plaintiff in error upon the said premises complete the said gas generator and the scrubbers and washers used in the manufacture of gas. That the water tank and gas holder had been commenced upon the foundations prepared for it and was being erected by one Davis & Farnum Manufacturing Com-

pany, a corporation organized under and by virtue of the laws of the State of Massachusetts, engaged in the business of manufacturing gas holders and gas tanks, under a contract with the said Valley Gas & Fu*le* Company for the said plaintiff in error. That said gas holder was of steel and to have a capacity of one hundred thousand cubic feet of gas, and when completed would cost the sum of $13,685. That all the steel and iron used in its construction were ready to be put in place and that within six weeks from the time of the filing of the complaint herein, would have been finished but for the acts of the said defendant in error, The City of Los Angeles.

That in the erection of said gas works and in the laying of pipe for the distribution of gas therefrom, and in the purchase of other material to enable the said plaintiff in error to complete and
74 carry out the said enterprise undertaken by her as aforesaid, the said plaintiff in error at the time of the filing of the original complaint in the superior court of the county of Los Angeles hereinafter mentioned, had already paid, laid out and expended upwards of the sum of $50,000 over and above the cost of the premises hereinbefore described.

That afterwards, on the 3rd day of March, 1902, the city council of the city of Los Angeles attempted to pass and adopt an ordinance entitled "An ordinance amending ordinance number 6663, new series, entitled, 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," which said purported ordinance is in words and figures as follows:

Ordinance No. 7029 (new series).

An ordinance amending ordinance No. 6663, new series, entitled "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," approved August 26, 1901, by amending section 1 of said ordinance.

The mayor and council of the city of Los Angeles do ordain as follows:

SECTION 1. That section 1 of ordinance No. 6663, new series, entitled, "An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles," approved August 26, 1901, be and the same is hereby amended to read as follows:

SECTION 1. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, maintain or cause to be maintained, any works, establishment or manufactory for the manufacture of gas; or any tank, reservoir or other receptacle for the storage of gas within the corporate limits of the city of Los Angeles, outside of the limits of the district described as follows, to-wit:

Beginning at the intersection of the center line of the official bed

of the Los Angeles river with the south charter boundary line of the city of Los Angeles; thence westerly along said south charter boundary line to the center line of Santa Fe avenue; thence northerly along the center line of Santa Fe avenue to the center line of Violet street; thence westerly along the center line of Violet street to the center line of Wilson street; thence northerly along the center line of Wilson street to the center line of Atlantic street; thence westerly along the center line of Atlantic street to the center line of Alameda street; thence northerly along the center line of Alameda street to the center line of Palmetto street; thence easterly along the center line of Palmetto street to the center line of Molino street; thence northerly along the center line of Molino street to the center line of Fourth street; thence easterly along the center line of Fourth street to the prolongation southerly of the center line of Santa Fe avenue; thence northerly along said prolonged center line of Santa Fe avenue and along the center line of Santa Fe avenue to the center line of First street; thence easterly along the center line of First street to the center line of Center street; thence northerly along the center line of Center street to the center line of Aliso street; thence westerly along the center line of Aliso street to the center line of Alameda street; thence northerly along the center line of Alameda street to Main street; thence along Main street to the intersection of Main and San Fernando streets; thence northeasterly along the center line of San Fernando street to the center line of Redondo street; thence southeasterly, following the line of the Southern Pacific railway on Redondo street and Alhambra avenue to the official bed of the Los Angeles river; thence southerly along the official bed of the Los Angeles river to the point of beginning.

The avenue designated herein as Santa Fe avenue, is the avenue lying in the district bounded by the Los Angeles river on the east and Alameda street on the west, and extending in a northerly and southerly direction between these two lines.

SECTION 2. The city clerk shall certify to the passage of this ordinance and shall cause the same to be published once in the Los Angeles Daily Journal, and thereupon and thereafter it shall take effect and be in force.

I hereby certify that the foregoing ordinance was adopted by the council of the city of Los Angeles at its meeting of March 3rd, 1902.

C. H. HANCE, *City Clerk.*

Approved this 3rd day of March, 1902.

M. P. SNYDER, *Mayor.*

75 That said ordinance last hereinbefore set forth was on the 3rd day of March, 1902, approved by the mayor of the city of Los Angeles and was afterwards, on the 5th day of March, 1902, published in the Los Angeles Journal, as in and by said alleged ordinance it was provided.

And your petitioner further shows that notwithstanding said

ordinance she endeavored in all respects, as she lawfully might, to erect and have erected upon the said premises hereinbefore described, the said gas works, but while the men in the employ of the said plaintiff in error and of the said subcontractors by her engaged in the contracts aforesaid, were engaged in the erection of said gas works, the City of Los Angeles on the 6th day of March, 1902, attempted to enforce said ordinance by arresting the employés engaged in the erection of said gas works upon the premises aforesaid, upon warrant issued by the police court of the city of Los Angeles for the alleged violation of said ordinance herein last set forth.

And your petitioner further shows that thereupon, on the 10th day of March, 1902, the said plaintiff in error, being still the owner of the premises aforesaid, and of the gas works erected and partially erected thereon, and desirous of carrying out her said undertaking, commenced an action in the superior court of the State of California, in and for the county of Los Angeles, against the said City of Los Angeles, wherein, in the complaint filed therein, your petitioner set forth the facts hereinbefore set forth, and sought to have declared and determined that the permit to the said plaintiff in error on the 22nd day of November, 1901, by the board of fire commissioners of the city of Los Angeles was a valid and
76 existing contract between the said defendant in error, The City of Los Angeles, and the said plaintiff in error, and that all ordinances attempted to be passed by the city council of the city of Los Angeles in controvention or in violation of the terms thereof, should be declared to be null and void as against the rights of the said plaintiff in error, and that the said City of Los Angeles should be enjoined and restrained from enforcing the said ordinance No. 7029 (new series) entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works or gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance" against the said plaintiff in error or against any of her agents, contractors, servants or employés, and from prosecuting and proceeding with any prosecutions commenced or to be commenced against the said plaintiff in error, or any of her agents, contractors, servants or employés, or the employés of any of them theretofore engaged or thereafter to be engaged in the erection of said gas works upon the premises of the plaintiff in error, described in the complaint, and that the said defendant in error be enjoined and restrained from in any manner hindering, delaying or interferring with, obstructing or preventing the said plaintiff in error from carrying out her said enterprise in erecting the said gas works upon the premises of the said plaintiff in error, situate in the said city of Los Angeles and State of California, as hereinfore described, and that they further be enjoined from in any way interferring with the operation or maintenance or management
77 of the said gas works of the said plaintiff in error, and for such other and further relief as the nature and circumstances of the case of the said plaintiff in error might require.

And such proceedings were had in the said action, *and* thereafter upon demurrer to the said complaint, interposed by the said defendant in error, The City of Los Angeles, on the 22nd day of September, 1902, a judgment was duly given and made in said cause whereby it was adjudged and decreed that the said plaintiff take nothing by said action and that the said defendant do have and recover of said plaintiff its costs and disbursements incurred in said action.

And your petitioner further shows that said petitioner did in said suit brought by her for the purpose aforesaid, to-wit: to enjoin and restrain the City of Los Angeles from enforcing the ordinance No. 7029, new series, attempted to be adopted by the city council of the city of Los Angeles on the 3rd day of March, 1903, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," claim and contend that said purported ordinance so adopted by the city council of the city of Los Angeles on the 3rd day of March, 1903, was, as to the rights of the said plaintiff in error acquired by her purchase of the land within the district described in the ordinance of August 26th, 1901, and by violation of her contract entered into between her and the Valley Gas & Fuel Company, and by violation of the rights secured and granted to her by the City of Los Angeles on the
78 22nd day of November, 1901, and by reason of the erection of the gas works and the expenditure of the large sums of money by her expended upon the said premises aforesaid, void because in violation of the provisions of the Constitution of the United States prohibiting any State from passing any law impairing the obligations of contracts and as depriving the plaintiff of her property without due process of law, and the validity of said ordinance of the city of Los Angeles passed on the 3rd day of March, 1902, was drawn in question upon the ground that it was repugnant to the provisions of the Constitution of the United States aforesaid.

And your petitioner further shows that on the 22nd day of September, 1902, your petitioner appealed from the judgment of the said superior court of the county of Los Angeles in said case to this court. That the said appeal was heard in bank in the said supreme court of the State of California, and that on the 29th day of May, A. D. 1903, the said judgment and order of the said superior court was affirmed, and it was adjudged that the said ordinance of the city of Los Angeles adopted on the 3rd day of March, 1902, was a valid ordinance as against the rights of your petitioner.

Your petitioner further avers that after the decision of the said supreme court of the State of California in bank, your petitioner filed a petition for a rehearing of the said case in bank, which said petition was on the 29th day of June, A. D. 1903, denied, and the said judgment of the said supreme court has become final.

And your petitioner further shows that in said suit brought by

your petitioner against the said City of Los Angeles there has
79 been a judgment in the highest court in this State in which a decision in the said suit could be had, and that in said action there was drawn in question the validity of the ordinance of the city of Los Angeles No. 7029, new series, passed and adopted by the city council of the city of Los Angeles on the 3rd day of March, 1902, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," upon the ground that said ordinance was repugnant to the Constitution of the United States, and the decision of the State court is in favor of the validity of said ordinance.

And your petitioner alleges that by the said ordinance of the city of Los Angeles adopted on the 3rd day of March, 1903, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks, or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," the obligation of the contract entered into between your petitioner and the said Valley Gas and Fuel Company, and the obligation of the contract between your petitioner and the City of Los Angeles secured and granted to your petitioner by the said City of Los Angeles on the 22nd day of November, 1901, were impaired, contrary to the provisions of the Constitution of the United States prohibiting the State from passing any law impairing the obligations of a contract, and your petitioner was deprived of her property
80 without due process of law, contrary to the provisions of the fourteenth amendment to the Constitution of the United States prohibiting any State from abridging the privileges and immunities of a citizen, and depriving the petitioner of her property without due process of law.

And the supreme court of the State of California did err in deciding in favor of the validity of the said ordinance of the city of Los Angeles, No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," and in not deciding that said ordinance was void as being in violation of the provisions of the Constitution of the United States aforesaid.

Wherefore your petitioner prays that the writ of error presented herewith from the Supreme Court of the United States to the supreme court of the State of California be allowed, and such other process as will enable your petitioner to obtain a review of the said case of Caroline W. Dobbins, plaintiff and plaintiff in error, against The City of Los Angeles, a municipal corporation, defendant and defendant in error, and the correction of the error aforesaid, committed

by the said supreme court of California, and for such other and further orders as may be proper, and your petitioner will ever pray.

LYNN HELM,
LEE, SCOTT, BAILEY & CHASE,
Attorneys for Petitioner, Caroline W. Dobbins.

Endorsed: Filed July 21, 1903. Frank C. Jordan, clerk, by J. C. Crooks, deputy.

81 [Endorsed:] R. Copy. L. A. No. 1330. Supreme court of the State of California Caroline W. Dobbins, plaintiff *vs.* City of Los Angeles, a municipal corporation defendant Petition for writ of error Lynn Helm, Lee, Scott, Bailey & Chase, attorney- for plaintiff.
Endorsed: Filed Jul- 21 1903 Frank C. Jordan, clerk by J. C. Crooks deputy.

82 In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error.

Order Allowing Writ of Error.

Upon motion of Lynn Helm and Messrs. Lee, Scott, Baily & Chase, attorneys for plaintiff Caroline W. Dobbins, and upon filing a petition for a writ of error and an assignment of errors,
It is ordered that a writ of error be, and hereby is, allowed to have reviewed in the United States Supreme Court the judgment heretofore entered herein, and that the amount of bond on said writ of error be, and hereby is, fixed at five hundred dollars ($500.00).
Dated this 16th day of July, 1903.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Endorsed: Filed Jul- 21 1903 Frank C. Jordan, clerk. By J. C. Crooks, deputy.

83 In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error.

Order Fixing Bond on Application for a Writ of Error.

The plaintiff, Caroline W. Dobbins, having this day filed her petition for a writ of error from the decision and judgment thereof made

and entered herein to the Supreme Court of the United States, together with an assignment of errors within due time, and also praying that an order be made fixing the amount and security which the plaintiff should give and furnish upon the said writ of error, and said petition having this day been granted, and the said writ of error duly allowed,

Now therefore it is ordered that the bond to be given by the said plaintiff Caroline W. Dobbins upon said writ of error, and the amount thereof is hereby fixed at the sam of five hundred dollars ($500) and the said plaintiff in error shall file with the clerk of said court a good and sufficient bond in the sum of five hundred dollars to the effect that if the said plaintiff in error shall prosecute the said writ of error to effect and answer all damages and costs if she fails to make her plea good, then the said obligation to be void; otherwise to remain in full force and effect. The said bond to be approved by this court.

Dated this 16 day of July, 1903.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Endorsed: Filed Jul- 21 1903. Frank C. Jordan, clerk. By J. C. Crooks, deputy.

84 In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error, *vs.* CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error.	Bond on Application for a Writ of Error.

Know all men by these presents, that we, Caroline W. Dobbins as principal, and the Union Surety & Guaranty Company of Philadelphia, a corporation organized under the laws of the State of Pennsylvania, with authority under the laws of the State of California to execute bonds, are held and firmly bound unto the said defendant, The City of Los Angeles, in the full and just sum of five hundred dollars ($500.00) to be paid to the said defendant, The City of Los Angeles, its attorney or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators jointly and severally, firmly by these presents.

Sealed with our seals and dated this 16 day of July, A. D. 1903.

Whereas, lately at a session of the supreme court of the State of California in a suit pending in said court between the said Caroline W. Dobbins plaintiff, and the said City of Los Angeles defendant, a final judgment was rendered against the said plaintiff, Caroline W. Dobbins, and the said Caroline W. Dobbins having obtained from the said court a writ of error to reverse the judgment in the afore-

said suit, and a citation directed to the said defendant, The
85 City of Los Angeles is about to be issued citing and admonishing it to be and appear at the Supreme Court of the United States to be holden at Washington in the District of Columbia.

Now the condition of the above obligation is such that if the said Caroline W. Dobbins shall prosecute her writ of error to effect and shall answer all damages and costs that may be awarded against her, if she fails to make her plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

CAROLINE W. DOBBINS:
UNION SECURITY & GUARANTY CO.,
By PAUL M. NIPPERT, [SEAL.]
Its Attorney in Fact.

The foregoing and within bond is hereby approved, July 21st, 1903.

W. H. BEATTY,
Chief Justice of the State of California.

Endorsed: Filed Jul- 21, 1903 Frank C. Jordan, clerk By J. C. Crooks deputy.

86 UNITED STATES OF AMERICA:

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error.
} Assignment of Errors.

Caroline W. Dobbins, having petitioned the honorable chief justice of the State of California for an order permitting her to prosecute a writ of error to the honorable, the Supreme Court of the United States from the final judgment made and entered in the said cause by the supreme court of the State of California, now makes and presents and files the following assignment of errors herein and says that in the record and proceedings in the above entitled matter there is manifest error in this, to-wit:

I.

By the record herein it appears that the supreme court of the State of California erred in deciding that the ordinance adopted by the city council of the city of Los Angeles on the 3rd day of March, 1902, No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the

erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," was valid
87 as to the rights of the said plaintiff in error, Caroline W. Dobbins, acquired before the passage of said ordinance.

II.

By the record herein it appears that the supreme court of the State of California erred in deciding that the ordinance adopted by the city council of the city of Los Angeles on the 3rd day of March, 1902, No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," was a valid police regulation, lawfully adopted by the city council of the city of Los Angeles in the lawful exercise of the police power granted to the city of Los Angeles by statute of the State of California by its charter, and by the constitution of the said State.

III.

By the record herein it appears that the supreme court of the State of California erred in deciding that the ordinance adopted by the city council of the city of Los Angeles on the 3rd day of March, 1902, No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," was not an invalid ordinance as an unwarranted interference with the enjoyment of the property rights of the said plaintiff in error acquired prior to the adoption of said ordinance, and as an impairment of the
88 obligation of the contracts made before the passage of said ordinance.

IV.

By the record herein it appears that the supreme court of the State of California erred in deciding that the ordinance adopted by the city council of the city of Los Angeles on the 3rd day of March, 1902, No. 7029, new series, entitled "An ordinance amending ordinance No. 6663, new series, entitled 'An ordinance prohibiting the erection or maintenance of gas works, gas tanks or reservoirs within certain portions of the city of Los Angeles,' approved August 26th, 1901, by amending section one of said ordinance," was not a valid ordinance as abridging the privileges and immunities of the said plaintiff in error, and depriving her of her property acquired prior to the adoption of said ordinance without due process of law.

V.

By the record and proceedings herein it appears that the supreme court of the State of California erred in not determining that the plaintiff in error was entitled to the relief in a court of equity enjoining the defendant in error, The City of Los Angeles, from enforcing by a criminal prosecution, the said ordinance.

VI.

The supreme court of the State of California erred in giving judgment for the defendant in this action and against the plaintiff.

VII.

The supreme court of the State of California erred in affirming the judgment of the superior court in this case.

VIII.

89 The supreme court of the State of California erred in not reversing the judgment of the superior court in this case and directing the said superior court to enter a decree therein overruling the demurrer to the complaint therein, and ordering that the said defendant be enjoined and restrained from enforcing the said ordinance against the said plaintiff.

By the record aforesaid it appears that the judgment of the said supreme court aforesaid, was given for the defendant in error against the plaintiff in error, and did affirm the judgment of the said superior court of the county of Los Angeles and the various rulings and decisions made therein and hereinbefore set forth, whereas by the law of the land the said judgment of the supreme court of the State of California ought to have reversed the judgment of the said superior court of the county of Los Angeles, and the said decision ought to have been against the validity of the said ordinance of the city of Los Angeles adopted on the 2nd day of March, 1892, as aforesaid, and that said ordinance was repugnant to the Constitution of the United States and void, and the said plaintiff in error prays that the judgment and decision of the supreme court of the State of California may be reversed, annulled and altogether held for naught, and that the said court be directed to reverse the decision of the said superior court of the county of Los Angeles, State of California, and that the plaintiff in error may have such other relief as she may be entitled to.

LYNN HELM,
LEE, SCOTT, BAILEY & CHASE,
Attorneys for Caroline W. Dobbins, Plaintiff in Error.

Endorsed: Filed Jul- 21 1893 Frank C. Jordan, clerk by J. C. Crooks, deputy.

90 UNITED STATES OF AMERICA:

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error. } L. A., 1430.

It is hereby certified that this cause was ordered to be, and was heard and determined in bank in the supreme court of the State of California, and that the said court in bank did on the 29th day of May, 1903, decide said case and render judgment affirming the judgment and order appealed from. And that thereafter, and within the time prescribed by the rules of said court, to-wit: within twenty days after the filing of said judgment, the said plaintiff filed in said court her petition presented to said court for a rehearing of the said case in said supreme court of the State of California in bank, and said petition was considered and acted upon by the said supreme court of the State of California; and on the 29th day of June, 1903, the said petition for a rehearing was by said court denied, and thereupon said judgment became final and remittitur was issued thereon.

Wherefore, this certificate is ordered to be made a part of the record and to be attested with the seal of said court.

Dated this 16th day of July, 1903.

W. H. BEATTY,
Chief Justice of the State of California,

91 Attest: FRANK C. JORDAN,
Clerk of the Supreme Court of the State of California,
By OSCAR A. TOLLE,
[SEAL.] *Deputy Clerk.*

Endorsed: Filed Jul- 21, 1903 Frank C. Jordan, clerk by J. C. Crooks, deputy.

92 UNITED STATES OF AMERICA, *ss:*

In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Plaintiff and Plaintiff in Error,
vs.
CITY OF LOS ANGELES, a Municipal Corporation, Defendant and Defendant in Error. } Citation.

To the City of Los Angeles, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be held at the city of Washington in the District of Columbia, within sixty days from the date

hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of California, wherein Caroline W. Dobbins is plaintiff and plaintiff in error in this action, and you are defendant in the action and defendant in error, to show cause, if any there be, why the judgment rendered against the plaintiff in error as in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable W. H. Beatty, chief justice of the supreme court of the State of California, this 16th day of July, 1903, and the Independence of the United States the one hundred and twenty-ninth.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Due service of within citation and receipt of copy of writ of
93 error mentioned therein this day admitted, and a copy of the same served upon us at Los Angeles city, California, this 17" day of July, 1903.

W. B. MATHEWS,
DAVIS, RUSH & WILLIS,
Attorneys for Defendant in Error.

94 [Endorsed:] R. L. A. No. 1330. Supreme court of the State of California Caroline W. Dobbins, plaintiff, *vs.* City of Los Angeles, a municipal corporation, defendant. Citation. Lynn Helm, Lee, Scott, Bailey & Chase, attorney- for plaintiff, Los Angeles, California. Filed Jul- 21 1903 Frank C. Jordan, clerk, by J. C. Crooks, deputy.

95 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable justices of the supreme court of the State of California, Greeting:

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of California before you or some of you, being the highest court of law or equity of the said State, in which a decision could be had in that certain suit between Caroline W. Dobbins, plaintiff and plaintiff in error, and The City of Los Angeles, a municipal corporation, defendant and defendant in error, wherein was drawn in question the validity of a statute, or an authority exercised under said State, to-wit: an ordinance of the city of Los Angeles, on the ground of their being repugnant to the Constitution, treaties and laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or com-

mission; a manifest error hath happened to the great damage of the said Caroline W. Dobbins, as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the
96 Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the 14th day of September next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States the 16th day of July, A. D. 1903.

[Seal U. S. Circuit Court, Northern Dist. Cal.]

SOUTHARD HOFFMAN,
Clerk U. S. Circuit Court, Northern District of California,
By W. B. BEAIZLEY, *Deputy Clerk.*

Allowed by
W. H. BEATTY,
Chief Justice of the Supreme Court
of the State of California.

97 [Endorsed:] L. A. No. 1330 In the Supreme Court of the United States. Caroline W. Dobbins, plaintiff in error, *vs.* City of Los Angeles, a municipal corporation, defendant in error. Original writ of error. Lynn Helm, Lee, Scott, Bailey & Chase, attorneys for plaintiff in error, Los Angeles, California. Filed Jul- 21, 1903, Frank C. Jordan, clerk, by J. C. Crooks, deputy.

98 In the Supreme Court of the State of California.

CAROLINE W. DOBBINS, Appellant,
vs.
THE CITY OF LOS ANGELES, ETC., Respondent. } L. A., 1330.

I Frank C. Jordan clerk of the supreme court of the State of California do hereby certify that the preceeding and annexed papers are true copies of the within stated papers in the case above given, which papers are on file in the office of the clerk of the supreme court of the State of California: these copies with the original citation and original writ of error constituting the papers on appeal to the United States Supreme Court.

The papers and copies referred to are, copy of transcript, stipulation of Feb. 7/03, decision of May 29/03, order denying a

rehearing June 29/03. petition for writ of error, order allowing writ of error, order fixing bond, bond, assignment of errors, certificate of final judgment, together with the original citation and original writ of error.

Witness my hand and the seal of the court, this 28th day of July, A. D. 1903.

[Seal Supreme Court of California.]

FRANK C. JORDAN, *Clerk*,
By J. C. CROOKS, *Deputy*.

Endorsed on cover: File No. 19051. California supreme court. Term No. 400. Caroline W. Dobbins, plaintiff in error, *vs.* The City of Los Angeles. Filed August 19th, 1903.